

1                         UNITED STATES DISTRICT COURT  
2                         FOR THE NORTHERN DISTRICT OF OHIO  
3                         EASTERN DIVISION

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5                         IN RE: NATIONAL                         MDL No. 2804  
6                         PRESCRIPTION OPIATE  
7                         LITIGATION                             Case No.  
8                         1:17-MD-2804  
9                         \*\*\*\*\*

10                        THIS DOCUMENT RELATES TO             Hon. Dan A. Polster  
11                        ALL CASES  
12                        \*\*\*\*\*

13                        HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
14   CONFIDENTIALITY REVIEW  
15                        VIDEOTAPED DEPOSITION OF CRAIG SCHIAVO  
16                        Thursday, January 17th, 2019  
17                        8:06 a.m.

18                        Held At:  
19   Omni Hotel  
20   One West Exchange Street  
21   Providence, Rhode Island  
22

23                        REPORTED BY:  
24                        Maureen O'Connor Pollard, RMR, CLR, CSR

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<p style="text-align: right;">Page 7</p> <p>1      2 CVS-Schiavo-28 6/17/14 e-mail with      3 attachment, Bates      4 CVS-MDLT1-000103342 and 3343.. 374      5      6      7      8      9      10      11      12      13      14      15      16      17      18      19      20      21      22      23      24</p>	<p style="text-align: right;">Page 9</p> <p>1 A. Good morning.      2 Q. My name is Mike Elsner, and I'm from      3 the law firm of Motley Rice, and I represent the      4 plaintiffs in these actions.      5 Can you please tell us your name?      6 A. My name is Craig Schiavo.      7 Q. When were you born?      8 A. February 12, 1982.      9 Q. So how old are you?      10 A. 36.      11 Q. 36.      12 And where do you live?      13 A. Medway, Massachusetts.      14 Q. And you graduated from Lasalle      15 University, is that right?      16 A. That's right.      17 Q. And that's in Philadelphia?      18 A. That's in Philadelphia.      19 Q. In 2004?      20 A. Yes.      21 Q. Okay. Did you graduate with a degree?      22 A. Yes.      23 Q. What is the degree?      24 A. My major was business management.</p>

<p style="text-align: right;">Page 10</p> <p>1 Q. Okay. Did you take any courses in 2 pharmaceuticals or pharmacy? 3 A. Not that I recall. 4 Q. Before joining Henry Schein, did you 5 have any coursework or take any studies in DA 6 regulations? 7 A. Not that I recall. 8 Q. Okay. When did you join Henry Schein? 9 Was that your first job out of college? 10 A. I joined Henry Schein in June of 2004, 11 and that was my first full-time job out of 12 college. 13 Q. Okay. And what were you hired to do? 14 A. When I started in 2004, I was doing 15 product recalls. 16 Q. And what did that involve? 17 A. We would receive recalls or 18 withdrawals from manufacturers or distributors, 19 and my responsibility was to coordinate the -- 20 making sure that our distribution centers put a 21 block on the product, and then if required 22 whatever notifications needed to go to either 23 our customers, or just coordinate the recall. 24 Q. Okay. And Henry Schein is a wholesale</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. And veterinary clinics? 2 A. For -- I don't think so the whole time 3 that I worked there, but at some point they did. 4 Q. Okay. Did it include retail 5 pharmacies? 6 A. For most of the time that I was there, 7 no. At the very end of my time with Henry 8 Schein I vaguely remember going or dealing with 9 a pharmacy, a few pharmacies. 10 Q. And would these be large retail 11 pharmacy chains like CVS or Walgreen's, or are 12 we talking about smaller pharmacies? 13 A. To the best of my recollection, I 14 think it was just smaller pharmacies. 15 Q. Okay. And how long did you perform 16 your job for Henry Schein in product recalls? 17 You started in June, 2004, and when did that 18 position end, and what was your next position 19 there? 20 A. I don't remember exactly how long I 21 was in the role. It might have been a couple 22 years, two, two and a half years. And then 23 after that my role was dealing with inspections 24 and controlled substances and suspicious order</p>
<p style="text-align: right;">Page 11</p> <p>1 distributor of medical products and drugs, is 2 that right? 3 A. That's part of their services, yes. 4 Q. What else do they do? 5 A. They distribute a lot of things. 6 Q. Okay. But they do distribute 7 controlled substances, is that right? 8 A. At the time that I worked there, yes. 9 Q. Okay. And did that include Schedule 10 II narcotics as well as Schedule III narcotics? 11 MS. MILLER: Object to form. 12 A. Yes. 13 BY MR. ELSNER: 14 Q. And can you give us a description of 15 Henry Schein's customer base as it related to 16 the sale of controlled substances? 17 A. We distributed mainly to the 18 office-based practitioner from what I remember. 19 Q. Okay. So that would include medical 20 doctors in their offices, is that right? 21 A. Yes. 22 Q. And dentists? 23 A. I believe we distributed to dentists, 24 yes.</p>	<p style="text-align: right;">Page 13</p> <p>1 monitoring. 2 Q. Did you begin that roughly in 2007? 3 Does that sound about right? 4 A. I don't recall. 5 Q. Okay. How was it that you 6 transitioned from product recalls into 7 regulatory specialist related to DEA compliance? 8 MS. MILLER: Object to form. 9 A. Can you just repeat the question? 10 BY MR. ELSNER: 11 Q. Yes. Well, let me ask it a different 12 way. 13 What was your title after you moved 14 from recall coordinator? What was your next 15 title at Henry Schein? 16 A. I don't remember the specific title. 17 Q. Okay. But what were you responsible 18 for in your new position? 19 A. I think I was still supporting 20 recalls. And then when I first started the role 21 I don't remember exactly what my 22 responsibilities were. 23 Q. Did it include any responsibilities 24 for DEA compliance with respect to controlled</p>

<p style="text-align: right;">Page 14</p> <p>1 substances?</p> <p>2 A. When I first transitioned into the</p> <p>3 role, I don't know what my responsibilities</p> <p>4 were, but it was learning the new role, and part</p> <p>5 of that was around controlled substances and</p> <p>6 inspections in our distribution centers.</p> <p>7 Q. And as you evolved into that role</p> <p>8 after the training period, then what were your</p> <p>9 general responsibilities in that position?</p> <p>10 A. Continued to be government</p> <p>11 inspections, training of some employees, and</p> <p>12 then compliance with controlled substances and</p> <p>13 suspicious order monitoring.</p> <p>14 Q. How many -- did you have employees</p> <p>15 that worked for you in that position?</p> <p>16 A. I had no direct reports.</p> <p>17 Q. Okay. How large was the team that</p> <p>18 dealt with compliance related to controlled</p> <p>19 substances at Henry Schein in that period?</p> <p>20 A. I'm not sure -- I mean, a lot of</p> <p>21 people had a part in the process. I don't know</p> <p>22 how many.</p> <p>23 Q. Were you involved in establishing</p> <p>24 Henry Schein's suspicious order monitoring</p>	<p style="text-align: right;">Page 16</p> <p>1 MR. MONTMINY: Objection. Form, asked</p> <p>2 and answered.</p> <p>3 A. I don't recall what the system was</p> <p>4 prior to me going to that role.</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. Did it exist?</p> <p>7 A. I don't recall.</p> <p>8 Q. At some point in time you became a</p> <p>9 senior regulatory specialist at Henry Schein, is</p> <p>10 that right?</p> <p>11 A. I believe so.</p> <p>12 Q. Okay. And was that in 2012?</p> <p>13 A. I don't recall when that happened.</p> <p>14 Q. Was it shortly before you left Henry</p> <p>15 Schein?</p> <p>16 A. I'm not sure what you mean by</p> <p>17 "shortly," but I don't remember exactly when I</p> <p>18 went into that role, or got that title.</p> <p>19 Q. How long did you serve in that role?</p> <p>20 A. Again, I don't remember when I -- I</p> <p>21 think that was a promotion. I don't remember</p> <p>22 when that happened.</p> <p>23 Q. Did your responsibilities change in</p> <p>24 any way?</p>
<p style="text-align: right;">Page 15</p> <p>1 program for controlled substances?</p> <p>2 MR. MONTMINY: Objection. Form,</p> <p>3 outside the scope.</p> <p>4 A. I was part of a team that worked on</p> <p>5 suspicious order monitoring.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. How many people were in that team?</p> <p>8 A. Again, I don't recall how many. There</p> <p>9 was a team of people. I can't remember</p> <p>10 everyone.</p> <p>11 Q. Less than ten? Less than five?</p> <p>12 What's your best estimate?</p> <p>13 A. Again, I don't recall. It wasn't just</p> <p>14 compliance. There were other departments that</p> <p>15 were participating. I can't even give a good</p> <p>16 guess on how many people.</p> <p>17 Q. When did Henry Schein develop its</p> <p>18 suspicious order monitoring system initially?</p> <p>19 MR. MONTMINY: Objection to form.</p> <p>20 A. I'm not sure.</p> <p>21 BY MR. ELSNER:</p> <p>22 Q. Was it in place in 2007 when you</p> <p>23 transitioned into that position, or was it</p> <p>24 something that you developed in that position?</p>	<p style="text-align: right;">Page 17</p> <p>1 A. I don't remember.</p> <p>2 Q. Did you have direct reports?</p> <p>3 A. I don't believe I ever had direct</p> <p>4 reports at Henry Schein.</p> <p>5 Q. I want to show you something on the</p> <p>6 screen, I didn't print it for you, but it might</p> <p>7 help your recollection with some of the dates,</p> <p>8 if that's okay.</p> <p>9 A. Sure.</p> <p>10 MS. MILLER: Mike, do you have hard</p> <p>11 copies?</p> <p>12 MR. ELSNER: I'll have hard copies of</p> <p>13 most everything else, but not this. This is his</p> <p>14 LinkedIn page. I'm going to show it to him and</p> <p>15 see if it helps him remember some of the dates.</p> <p>16 MS. MILLER: Craig, are you able to --</p> <p>17 MR. ELSNER: There's a screen, but</p> <p>18 it's not there yet.</p> <p>19 Can we just go off the record for a</p> <p>20 quick minute while we get this? Sorry.</p> <p>21 THE VIDEOGRAPHER: We're going off the</p> <p>22 record at 8:17 a.m.</p> <p>23 (Pause.)</p> <p>24 THE VIDEOGRAPHER: We're back on the</p>

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1 record at 8:18 a.m. 2 (Whereupon, CVS-Schiavo-1 was marked 3 for identification.) 4 BY MR. ELSNER: 5 Q. Mr. Schiavo, we've placed before you 6 what we're going to mark as Exhibit 1. Is this 7 a copy of your LinkedIn page? 8 A. It looks to be my LinkedIn page. 9 Q. That's your picture? 10 A. That is my picture. 11 Q. Okay. Did you draft -- did you create 12 your own LinkedIn page? 13 A. Yes. 14 Q. Okay. Let's move down to the portion 15 that deals with your work experience at Henry 16 Schein. I think it starts on the bottom of the 17 first page there. It says that you worked there 18 for roughly eight years. Is that accurate? 19 A. That seems about right. 20 Q. Okay. When did you create your 21 LinkedIn page? 22 A. I don't remember when I created it. 23 Q. It says here that your work for Henry 24 Schein was in Greenville, South Carolina. Is	1 Q. Okay. The first time you started 2 handling DEA compliance, was that 2007? 3 A. I don't remember the exact year. 4 Q. If we go back to the first page, I'm 5 sorry we're fumbling through this a little bit, 6 there's a summary of your work experience, and 7 it lists on the bottom that you were a 8 regulatory associate from 2004 to 2007. Does 9 that sound right? 10 A. That seems about right. I don't 11 specifically recall those dates, but... 12 Q. When you drafted your LinkedIn page, 13 did you make an effort to make sure it was 14 accurate? 15 MS. MILLER: Object to form. 16 A. I don't recall doing anything to 17 intentionally not be accurate, but I don't spend 18 much time on LinkedIn or use LinkedIn very 19 often. 20 BY MR. ELSNER: 21 Q. Okay. Above that you listed 22 "Regulatory Specialist - DEA Compliance" from 23 2007 to 2012. Does that -- is that accurate? 24 A. That's what it says there. Again, I
Page 19	Page 21
1 that where you were working when you worked for 2 them? 3 A. Part of the time that I worked for 4 them it was in Greenville. 5 Q. What period of time did you spend in 6 Greenville? 7 A. It was my last year with the company. 8 Q. Your last year. 9 Where were you before that? 10 A. I was in Melville, Long Island. 11 Q. In New York? 12 A. In New York. 13 Q. Okay. What year did you move to 14 Greenville? 15 A. I believe it was 2011. 16 Q. Okay. On the second page of your 17 LinkedIn page it lists -- the top of the second 18 page, it says "Senior Regulatory Specialist - 19 DEA Compliance," and it's listed there from June 20 of 2004 to August of 2012, if I can read that 21 correctly. Is that accurate? 22 A. That's what it says there. I started 23 in June of 2004. I wasn't handling anything 24 with DEA compliance that I recall in 2004.	1 don't specifically recall the dates where I 2 started the position, but that's what it says. 3 Q. Okay. And then in 2012 you were a 4 senior regulatory specialist for DEA compliance, 5 is that right? 6 A. I know in 2012 I was a senior 7 regulatory specialist. 8 Q. Okay. And Henry Schein hired the 9 Buzzeo Group as consultants to work on the 10 suspicious order monitoring program for 11 controlled substances, is that right? 12 MR. MONTMINY: Objection. Outside the 13 scope. 14 A. I don't recall exactly why we hired 15 Buzzeo, if it was there specifically for SOM or 16 just general compliance. 17 BY MR. ELSNER: 18 Q. Do you know when Henry Schein hired 19 Buzzeo? 20 A. I don't recall. 21 Q. Do you know what Buzzeo -- what was 22 your understanding of what work Buzzeo was doing 23 for Henry Schein? 24 MR. MONTMINY: Objection. Outside the

<p>1 scope.</p> <p>2 A. We worked with Buzzeo on general DEA</p> <p>3 compliance issues, as I remember it.</p> <p>4 BY MR. ELSNER:</p> <p>5 Q. Such as what?</p> <p>6 A. Inspections, SOM, anything that had to</p> <p>7 do with DEA compliance.</p> <p>8 Q. Who specifically at Buzzeo did you</p> <p>9 work with?</p> <p>10 A. There were a number of people. I</p> <p>11 can't recall everyone that I worked with at</p> <p>12 Buzzeo.</p> <p>13 Q. You said that Buzzeo did work for</p> <p>14 Henry Schein on their SOM program. What type of</p> <p>15 work did they do?</p> <p>16 MR. MONTMINY: Objection. Outside the</p> <p>17 scope.</p> <p>18 A. So I recall working with Buzzeo on --</p> <p>19 I mean, I used to speak to Buzzeo for guidance</p> <p>20 on lots of topics, not specific to SOM, but they</p> <p>21 helped us develop the newer system, I guess,</p> <p>22 that I was a part of. That was part of the role</p> <p>23 that they played.</p> <p>24 BY MR. ELSNER:</p>	<p>Page 22</p> <p>1 A. I don't recall any specific</p> <p>2 documentation or training materials.</p> <p>3 Q. Did they come into Henry Schein and</p> <p>4 offer training, seminars, or sessions with</p> <p>5 employees at Henry Schein?</p> <p>6 MR. MONTMINY: Objection. Outside the</p> <p>7 scope.</p> <p>8 A. I recall at least one training.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. Who did the training, do you recall?</p> <p>11 A. I don't recall who it was.</p> <p>12 Q. What work were you doing on the</p> <p>13 suspicious order monitoring system at Henry</p> <p>14 Schein for controlled substances?</p> <p>15 A. At which point are you referring to?</p> <p>16 Q. Walk me through from 2007 to 2012.</p> <p>17 A. I know in 2007, if that's when I</p> <p>18 transitioned based on my LinkedIn page, I was</p> <p>19 probably just learning. And then by the end in</p> <p>20 2012, my role was again -- specifically to SOM?</p> <p>21 Q. Yes.</p> <p>22 A. I was conducting site visits on</p> <p>23 customers and reviewing orders that were flagged</p> <p>24 by the SOM system.</p>
<p>Page 23</p> <p>1 Q. The newer system is a newer suspicious</p> <p>2 order monitoring system for controlled</p> <p>3 substances, is that what you mean?</p> <p>4 A. Yeah, it was either the newer or</p> <p>5 enhanced system that was being worked on.</p> <p>6 Q. Were they -- what was --</p> <p>7 A. The enhanced system.</p> <p>8 Q. The enhanced system.</p> <p>9 Did Buzzeo assist Henry Schein in</p> <p>10 developing an algorithm for its suspicious order</p> <p>11 monitoring program?</p> <p>12 MR. MONTMINY: Objection. Outside the</p> <p>13 scope.</p> <p>14 A. I believe so.</p> <p>15 BY MR. ELSNER:</p> <p>16 Q. And did Buzzeo create training</p> <p>17 materials and train employees at Henry Schein on</p> <p>18 the suspicious order monitoring system?</p> <p>19 A. What exactly do you mean by</p> <p>20 "training"?</p> <p>21 Q. Well, did they develop training</p> <p>22 materials for Henry Schein to train their</p> <p>23 employees on the suspicious order monitoring</p> <p>24 system for controlled substances?</p>	<p>Page 25</p> <p>1 Q. So as I understand it, the suspicious</p> <p>2 order monitoring system would use an algorithm</p> <p>3 to identify potentially suspicious orders, is</p> <p>4 that generally accurate?</p> <p>5 MS. MILLER: Object to form.</p> <p>6 A. The suspicious order monitoring system</p> <p>7 was a piece of the process used to identify</p> <p>8 orders of interest, but that wasn't the only way</p> <p>9 to identify orders.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. And once orders were identified of</p> <p>12 interest, did you have responsibility for</p> <p>13 reviewing those orders to determine whether they</p> <p>14 were potentially suspicious of diversion or not?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. That was part of my responsibilities.</p> <p>17 BY MR. ELSNER:</p> <p>18 Q. What would you do to do that when you</p> <p>19 worked at Henry Schein?</p> <p>20 A. It all depended on the order. There</p> <p>21 were tons of approaches to take to review an</p> <p>22 order.</p> <p>23 Q. Do you know what the criteria that</p> <p>24 Henry Schein was using at that time, what its</p>

<p style="text-align: right;">Page 26</p> <p>1 algorithm was pulling orders for to determine      2 whether they should be -- whether they should      3 have an enhanced review?</p> <p>4 MR. MONTMINY: Objection. Form,      5 outside the scope.</p> <p>6 A. The specific logic used by the      7 algorithm, I didn't know that. I knew at a high      8 level the system was looking for orders of      9 unusual size, buying pattern, or frequency.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. When they identified those orders,      12 what were the tools that you used to determine      13 whether an order was -- should be further      14 investigated?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. There is no limitation on what I could      17 use. Whatever information that was available to      18 me or that I could use, I did.</p> <p>19 BY MR. ELSNER:</p> <p>20 Q. What information was available to you?      21 Were there databases that you could pull upon,      22 or was there order history you could review?      23 What were the items you could look at to      24 determine whether a particular order was worthy</p>	<p style="text-align: right;">Page 28</p> <p>1 would just Google the doctor office name.      2 Q. Okay. Anything else?</p> <p>3 A. There are lots of things. Anything      4 that I would see or could research, I would do.</p> <p>5 Q. I appreciate there are lots of things,      6 but I need to get a more specific sense of what      7 you actually did.</p> <p>8 So did you look to determine whether      9 they had a valid DEA license?</p> <p>10 MS. MILLER: Object to form.</p> <p>11 A. That specifically was not my role.</p> <p>12 BY MR. ELSNER:</p> <p>13 Q. Okay. Did you look to see whether      14 they had a criminal background, or a criminal      15 history?</p> <p>16 MS. MILLER: Object to form.</p> <p>17 A. I don't recall ever specifically      18 looking for that.</p> <p>19 BY MR. ELSNER:</p> <p>20 Q. What determined whether you would make      21 a site visit to a particular doctor's office or      22 dentist's office or something else like that?</p> <p>23 MS. MILLER: Object to form.</p> <p>24 A. I don't think there was one criteria</p>
<p style="text-align: right;">Page 27</p> <p>1 of enhanced investigation?</p> <p>2 MR. MONTMINY: Objection. Form,      3 outside the scope.</p> <p>4 A. I can't remember everything that I      5 used. Some of the things you mentioned were      6 data sources that we used. It also included      7 phone calls or site visits or internet searches.      8 I mean, there were -- any resource that I could      9 use, I would -- was available.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. Did you have databases that you could      12 pull upon, outside databases that you could pull      13 upon to search for information about particular      14 physicians?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. I'm not sure what you're referring to      17 by outside databases.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. Well, you mentioned that you could      20 access information on the internet about people,      21 and you do research and internet searches. So      22 what type of searches are we talking about?</p> <p>23 A. There were lots of searches. One      24 example would be if it was a doctor's office, I</p>	<p style="text-align: right;">Page 29</p> <p>1 that when I saw it I said, this needs a site      2 visit.</p> <p>3 BY MR. ELSNER:</p> <p>4 Q. Well, you didn't visit every doctor's      5 office that was identified by the suspicious      6 order monitoring system, right?</p> <p>7 A. I don't believe so.</p> <p>8 Q. Okay. So what were among the criteria      9 you would use to determine whether you were      10 going to conduct a site visit?</p> <p>11 MR. MONTMINY: Object to form.</p> <p>12 Outside the scope.</p> <p>13 A. There's lots of situations that would      14 cause me to do a site -- there is not one or      15 two, but there were lots.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. Well, give us some examples.</p> <p>18 A. If there was -- if I felt that an      19 order was significantly higher than someone's      20 previous order.</p> <p>21 Q. What would make it significantly      22 higher?</p> <p>23 A. I don't know. Determination at the      24 time.</p>

<p style="text-align: right;">Page 30</p> <p>1 Q. How far back in the order history      2 would you look to determine whether this      3 particular order was significantly higher than      4 prior orders?</p> <p>5 MR. MONTMINY: Objection. Form,      6 outside the scope.</p> <p>7 A. I don't recall it. I'm sure it was      8 different for every situation.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. Was there a particular database at      11 Henry Schein that contained that information?</p> <p>12 A. We had a data warehouse.</p> <p>13 Q. What data was contained in the data      14 warehouse that you used to conduct your      15 suspicious order monitoring review?</p> <p>16 MR. MONTMINY: Objection. Form.</p> <p>17 A. I don't recall everything that I      18 pulled out of there. I know order history was      19 one.</p> <p>20 BY MR. ELSNER:</p> <p>21 Q. What else?</p> <p>22 A. I don't recall what else was in there.</p> <p>23 Q. Did you ever seek from a physician's      24 office information about their patients?</p>	<p style="text-align: right;">Page 32</p> <p>1 BY MR. ELSNER:      2 Q. How long do those calls generally      3 last?</p> <p>4 MR. MONTMINY: Objection. Form,      5 outside the scope.</p> <p>6 A. Every call was a different length.</p> <p>7 BY MR. ELSNER:      8 Q. Every call was unique and completely      9 different? You never asked the same question,      10 you never had a set of questions that you were      11 sure to follow up with each physician?</p> <p>12 MR. MONTMINY: Objection. Form.</p> <p>13 A. I believe there are guidelines that I      14 used, but every call was unique.</p> <p>15 BY MR. ELSNER:      16 Q. So other than how many patients the      17 doctor had seen, what else would you ask?</p> <p>18 MR. MONTMINY: Objection. Form,      19 outside the scope.</p> <p>20 A. It all depends on why I was following      21 up on the order.</p> <p>22 BY MR. ELSNER:      23 Q. Did you ever ask for dispensing      24 history from a physician's office?</p>
<p style="text-align: right;">Page 31</p> <p>1 MR. MONTMINY: Objection. Form,      2 outside the scope.</p> <p>3 A. I'm not sure what you mean by      4 information on patients.</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. Well, did you determine what kind of      7 physician the doctor was and what kind of      8 patients the physician was providing services      9 to?</p> <p>10 MR. MONTMINY: Objection. Form,      11 outside the scope.</p> <p>12 A. Part of when I spoke to a physician I      13 would ask what their practice was, and typically      14 I get a high level what are your visits like      15 with patients. I never got to details.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. When you say high level what were your      18 visits like with patients, you'd ask them how      19 long they'd spend with a patient?</p> <p>20 MS. MILLER: Object to form.</p> <p>21 A. Not specifically. Every conversation      22 with a doctor was different. But I'd ask how      23 many patients you'd seen, as an example, but      24 every conversation was different.</p>	<p style="text-align: right;">Page 33</p> <p>1 MR. MONTMINY: Objection. Form.</p> <p>2 A. I don't recall.</p> <p>3 BY MR. ELSNER:      4 Q. Did you ever ask whether that      5 physician was ordering controlled substances      6 from other wholesale distributors?</p> <p>7 MR. MONTMINY: Objection. Form.</p> <p>8 A. I might have. I don't specifically      9 remember.</p> <p>10 BY MR. ELSNER:      11 Q. What else do you remember about what      12 you'd ask physicians for.</p> <p>13 MR. MONTMINY: Objection. Form.</p> <p>14 A. Again, it all depended on why I was      15 conducting the order.</p> <p>16 BY MR. ELSNER:      17 Q. When you were going to do a site      18 visit, what was it that you were looking for?</p> <p>19 MR. MONTMINY: Objection. Form.</p> <p>20 A. It all depends on why I decided to do      21 the site visit.</p> <p>22 BY MR. ELSNER:      23 Q. Give me an example, any example.</p> <p>24 A. At a high level I was looking to see</p>

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<p>1 that they were a legitimate physician.</p> <p>2 Q. How did you do that?</p> <p>3 MS. MILLER: Object to form.</p> <p>4 A. Doing a site visit and speaking with</p> <p>5 the doctor or, like I said, Google searches and</p> <p>6 reviews. I mean, there was tons of resources.</p> <p>7 BY MR. ELSNER:</p> <p>8 Q. Did you look at dispensing history</p> <p>9 from those physicians' offices? When you</p> <p>10 conducted a site visit, would you ask to see</p> <p>11 their dispensing records?</p> <p>12 MR. MONTMINY: Object to form.</p> <p>13 Outside the scope.</p> <p>14 A. I don't recall ever asking to see</p> <p>15 dispensing records.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. There came a time when you -- strike</p> <p>18 that.</p> <p>19 Buzzeo had annual conferences for</p> <p>20 controlled substances, is that right?</p> <p>21 A. I believe they were annual.</p> <p>22 Q. And you attended some of those?</p> <p>23 A. Yes.</p> <p>24 Q. How many of them did you attend?</p>	<p>1 keep that one.</p> <p>2 MR. MONTMINY: Do you have an extra</p> <p>3 copy of that?</p> <p>4 BY MR. ELSNER:</p> <p>5 Q. Mr. Schiavo, I placed before you a</p> <p>6 series of e-mails. And if you start on the</p> <p>7 bottom e-mail on the first page, which is</p> <p>8 495778, you are among the recipients of this</p> <p>9 e-mail from Leslie Lowry. Do you see your name</p> <p>10 there?</p> <p>11 A. Yes.</p> <p>12 Q. And this relates to the "8th Annual CS</p> <p>13 Conference - Agenda &amp; Speaker Information," is</p> <p>14 that right?</p> <p>15 A. That's what the subject says.</p> <p>16 Q. Do you know who Leslie Lowry is?</p> <p>17 A. I don't remember exactly what her role</p> <p>18 was. I do remember having conversations and</p> <p>19 talking with her.</p> <p>20 Q. And she's with the Buzzeo Group, is</p> <p>21 that right?</p> <p>22 A. She -- at that time it looks like they</p> <p>23 were Cegedim, but...</p> <p>24 Q. Previously they were the Buzzeo Group,</p>
<p>1 A. I don't recall.</p> <p>2 Q. More than one?</p> <p>3 A. I attended more than one.</p> <p>4 Q. How many?</p> <p>5 MS. MILLER: Object to form.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. Five?</p> <p>8 MS. MILLER: Object to form.</p> <p>9 A. I don't recall the exact number.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. They had a conference at the Crystal</p> <p>12 Gateway Marriott in Arlington, Virginia in</p> <p>13 October of 2008. That was the sixth one. Did</p> <p>14 you attend that one in 2008?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. I don't specifically remember the</p> <p>17 year, but it's possible.</p> <p>18 MR. ELSNER: We'll mark this document</p> <p>19 as Exhibit 2.</p> <p>20 (Whereupon, CVS-Schiavo-2 was marked</p> <p>21 for identification.)</p> <p>22 BY MR. ELSNER:</p> <p>23 Q. This is MR 98.</p> <p>24 MS. MILLER: One copy is for me. You</p>	<p>1 they changed names?</p> <p>2 A. As I understand it, yes.</p> <p>3 Q. And it attaches an agenda to the 8th</p> <p>4 Annual Controlled Substances Conference, is that</p> <p>5 right?</p> <p>6 A. That's what it says.</p> <p>7 Q. Okay. And if you look at the</p> <p>8 conference schedule, you're listed as a speaker</p> <p>9 at this conference, is that right?</p> <p>10 A. Which page are we looking at?</p> <p>11 Q. If we start toward the back, 495784.</p> <p>12 A. It has me listed as a speaker.</p> <p>13 Q. Okay. And then there you're listed --</p> <p>14 your title on this is "Regulatory Specialist/DEA</p> <p>15 Compliance, Henry Schein," correct?</p> <p>16 A. That's what it says.</p> <p>17 Q. Was that accurate?</p> <p>18 A. I don't have reason to believe it</p> <p>19 wasn't accurate.</p> <p>20 Q. Okay. And it appears that you're on</p> <p>21 two back-to-back panels, one from 4 to 4:45, and</p> <p>22 then on the second panel on SOM compliance,</p> <p>23 you're listed at the top of the following page</p> <p>24 at 495785, is that right?</p>

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<p>1 A. I see that.</p> <p>2 Q. Did you speak at this conference?</p> <p>3 A. I don't remember it to be the 8th, but</p> <p>4 I did speak at a Buzzeo conference, yes.</p> <p>5 Q. Did you do it one time, or did you do</p> <p>6 it more than once?</p> <p>7 A. I remember speaking at one Buzzeo</p> <p>8 conference.</p> <p>9 Q. Could it have been more?</p> <p>10 MS. MILLER: Object to form.</p> <p>11 A. When you say "speak," you mean</p> <p>12 present?</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. Well, let's start with present. Did</p> <p>15 you present at more than one conference?</p> <p>16 A. I don't believe I presented at more</p> <p>17 than one conference.</p> <p>18 Q. Did you otherwise speak at more than</p> <p>19 one conference?</p> <p>20 A. While at the conference I've had</p> <p>21 conversation with colleagues.</p> <p>22 Q. I meant in a public way.</p> <p>23 A. No.</p> <p>24 Q. Was there a reason that you asked me</p>	<p>1 MS. MILLER: Object to form.</p> <p>2 A. I don't remember the specific</p> <p>3 conversation where they asked me to speak.</p> <p>4 BY MR. ELSNER:</p> <p>5 Q. This is the 8th Annual Controlled</p> <p>6 Substance Conference. Had you attended any</p> <p>7 conferences before this conference where you</p> <p>8 were asked to speak?</p> <p>9 MS. MILLER: Object to form.</p> <p>10 A. Not that I recall.</p> <p>11 BY MR. ELSNER:</p> <p>12 Q. So they asked you to speak at the very</p> <p>13 first conference you attended, is that your</p> <p>14 testimony?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. That's not my testimony. I don't</p> <p>17 recall if this was the first one that I went to.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. Did you have a -- when you attended</p> <p>20 these conferences, did you keep any of the</p> <p>21 materials from the conferences you attended?</p> <p>22 MS. MILLER: Object to form.</p> <p>23 A. Did I keep them for -- I'm sure I</p> <p>24 brought materials home with me.</p>
Page 39	Page 41
<p>1 whether you -- you seem to define my term of</p> <p>2 presentation to speak or not, so was there a</p> <p>3 reason that you did that?</p> <p>4 MS. MILLER: Object to form.</p> <p>5 A. I just want to make sure I answered</p> <p>6 your question.</p> <p>7 BY MR. ELSNER:</p> <p>8 Q. And I want to make sure I've exhausted</p> <p>9 your participation in these conferences. Did</p> <p>10 you -- other than speak at this particular</p> <p>11 conference, did you otherwise participate in the</p> <p>12 conference in any other way than as an observer,</p> <p>13 if you attended others?</p> <p>14 MS. MILLER: Object to form.</p> <p>15 A. Aside from speaking at this one</p> <p>16 conference, that was the only time I can recall</p> <p>17 being asked to contribute anything to the</p> <p>18 conference.</p> <p>19 BY MR. ELSNER:</p> <p>20 Q. Who asked you to speak?</p> <p>21 A. I don't remember who originally asked</p> <p>22 me to speak.</p> <p>23 Q. Do you know why they asked you to</p> <p>24 speak? What did they tell you?</p>	<p>1 BY MR. ELSNER:</p> <p>2 Q. What would you do with them when you</p> <p>3 brought them home?</p> <p>4 MS. MILLER: Object to form.</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. Did you save them at your office?</p> <p>7 Would you save them at home? What would you do</p> <p>8 with them?</p> <p>9 A. I don't recall.</p> <p>10 MS. MILLER: Object to form.</p> <p>11 BY MR. ELSNER:</p> <p>12 Q. Do you have a file of all these</p> <p>13 materials at your office or at home?</p> <p>14 MS. MILLER: Object to form.</p> <p>15 A. Are you asking presently, or at the</p> <p>16 time of the conference?</p> <p>17 BY MR. ELSNER:</p> <p>18 Q. Let's say at the time of the</p> <p>19 conferences when you were at Henry Schein, did</p> <p>20 you keep a file of the conferences that you</p> <p>21 attended at your office or at home?</p> <p>22 MS. MILLER: Object to form.</p> <p>23 A. I don't recall.</p> <p>24 BY MR. ELSNER:</p>

<p style="text-align: right;">Page 42</p> <p>1 Q. What about today, do you have a file      2 of the conferences that you attend or the      3 conferences that you've spoken at either at your      4 office or at your home?</p> <p>5 MS. MILLER: Object to form.</p> <p>6 A. I know I have a copy of a      7 presentation. I don't recall having any other      8 documentation from previous conferences.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. So when I speak at a conference, a lot      11 of times I'll write out what I'm going to say      12 and sometimes I'll prepare a PowerPoint and I      13 have one of each. Did you do the same thing, or      14 do you just have a copy of the PowerPoint?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. I honestly don't recall how I prepared      17 or what I prepared for speaking.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. Let me show you what we've marked as      20 Exhibit 3.</p> <p>21 (Whereupon, CVS-Schiavo-3 was marked      22 for identification.)</p> <p>23 BY MR. ELSNER:</p> <p>24 Q. This is a copy of a PowerPoint</p>	<p style="text-align: right;">Page 44</p> <p>1 Schein, and it was produced in native, so we'll      2 get you the Bates number for that.</p> <p>3 A. I'm sorry, can you just repeat the      4 question?</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. I asked if you created this PowerPoint      7 presentation.</p> <p>8 A. Can I look through it?</p> <p>9 Q. Sure.      10 (Witness reviewing document.)</p> <p>11 A. I recall giving input on it.</p> <p>12 Q. What input? Did you assist in      13 providing the information to someone to create      14 the slides?</p> <p>15 A. At some point I might have.</p> <p>16 Q. Well, is this the PowerPoint you used      17 for your presentation at this conference?</p> <p>18 MR. MONTMINY: Objection. Form.</p> <p>19 A. I'm not sure if this is the exact      20 presentation.</p> <p>21 BY MR. ELSNER:</p> <p>22 Q. Does it look like it is?</p> <p>23 MR. MONTMINY: Objection. Form.</p> <p>24 BY MR. ELSNER:</p>
<p style="text-align: right;">Page 43</p> <p>1 presentation. Do you see on the top left-hand      2 side it says "8th Annual Controlled Substance      3 Conference"? Did I read that correctly?</p> <p>4 A. I see that.</p> <p>5 Q. And the title of the PowerPoint is      6 "The Challenge to 'Know Your Customer' and Best      7 Practices." Did I read that right?</p> <p>8 A. You read that right.</p> <p>9 Q. Okay. And then it lists "Craig      10 Schiavo, Regulatory Specialist/DEA Compliance,      11 Henry Schein, November 2010." Did I read that      12 right?</p> <p>13 A. You read that correctly.</p> <p>14 Q. Did you create this PowerPoint      15 presentation?</p> <p>16 MR. MONTMINY: Objection. Form.</p> <p>17 Counsel, could I ask, there's no Bates      18 numbers on this document, do you know where this      19 came from?</p> <p>20 MR. ELSNER: Yes, we'll get you the      21 Bates number.</p> <p>22 MS. MILLER: So this wasn't      23 produced --</p> <p>24 MR. ELSNER: It was produced by Henry</p>	<p style="text-align: right;">Page 45</p> <p>1 Q. Do you have reason to believe that      2 it's not?</p> <p>3 MR. MONTMINY: Objection. Form.</p> <p>4 A. I don't have reason to believe that      5 it's not, but I don't remember this whole      6 presentation.</p> <p>7 BY MR. ELSNER:</p> <p>8 Q. If you turn to Page 3 of the      9 presentation, there's an overview of Henry      10 Schein. It says "Henry Schein - Over 75 Years      11 of Quality Service." Do you see that? Did I      12 read that correctly?</p> <p>13 A. You read that correctly.</p> <p>14 Q. Okay. And the second bullet -- or the      15 first bullet, it says that "Henry Schein is the      16 largest distributor of healthcare products and      17 services to office-based practitioners." Did I      18 read that correctly?</p> <p>19 A. You read that correctly.</p> <p>20 Q. Was that true --</p> <p>21 MR. MONTMINY: Object to form.</p> <p>22 BY MR. ELSNER:</p> <p>23 Q. -- at the time?</p> <p>24 A. It says it there.</p>

<p style="text-align: right;">Page 46</p> <p>1 Q. You didn't intend to put misleading      2 information in the PowerPoint, right?      3 MR. MONTMINY: Object to form.      4 MS. MILLER: Object.      5 BY MR. ELSNER:      6 Q. Correct?      7 A. I don't think I would put misleading.      8 Q. In the second bullet it says that      9 Henry Schein has 700,000 customers worldwide and      10 386,000 domestic customers, is that right?      11 MR. MONTMINY: Objection. Form.      12 A. I don't recall those numbers.      13 BY MR. ELSNER:      14 Q. That's the presentation that you gave      15 at this conference, though, is that right?      16 MR. MONTMINY: Objection. Form.      17 A. That's what it says in the deck.      18 BY MR. ELSNER:      19 Q. It then says that "Customers include      20 dental practices and laboratories, physician      21 practices, and animal health clinics." Is that      22 right?      23 MS. MILLER: Object to form.      24 A. That's what it says.</p>	<p style="text-align: right;">Page 48</p> <p>1 Schein, is that right?      2 MS. MILLER: Object to form.      3 A. I had seen that letter while at Henry      4 Schein.      5 BY MR. ELSNER:      6 Q. Okay. And that letter refers to, and      7 in your first bullet you quote, to "Design and      8 operate a system to disclose to the registrant      9 suspicious orders of controlled substances," and      10 then there's a citation. You understand that to      11 be a citation to the Controlled Substances Act,      12 is that right?      13 MR. MONTMINY: Object to form.      14 MS. MILLER: Object to form.      15 A. I know that's straight out of the CFR.      16 BY MR. ELSNER:      17 Q. Do you understand that that's part of      18 the Controlled Substances Act?      19 MS. MILLER: Object to form.      20 A. I know the CFR has regulations from      21 the DEA.      22 BY MR. ELSNER:      23 Q. Did you know that the Controlled      24 Substances Act had been in place since 1970?</p>
<p style="text-align: right;">Page 47</p> <p>1 BY MR. ELSNER:      2 Q. Is that consistent with your      3 understanding of Henry Schein's customer base?      4 MR. MONTMINY: Objection. Form,      5 outside the scope.      6 A. I do recall those being part of the      7 customer base.      8 BY MR. ELSNER:      9 Q. If you turn to the next page, the top,      10 the heading on the top is "Why Due Diligence Is      11 Required," is that right?      12 A. That's what it says.      13 Q. And it refers to the December, 2007      14 letter from the DEA, is that right?      15 A. That's what it says.      16 Q. This is a reference to the letter that      17 was authored by Joseph Rannazzisi to all      18 manufacturers and distributors of controlled      19 substances, is that right?      20 MS. MILLER: Object to form.      21 A. As I recall, that's the letter.      22 BY MR. ELSNER:      23 Q. Okay. And you had seen that letter,      24 obviously, before with your work at Henry</p>	<p style="text-align: right;">Page 49</p> <p>1 MS. MILLER: Object to form.      2 A. I didn't know the exact date.      3 BY MR. ELSNER:      4 Q. At the last bullet on this page, it      5 states "Suspicious orders include orders of      6 unusual size, orders deviating substantially      7 from a normal pattern, and orders of an unusual      8 frequency." Did I read that correctly?      9 MR. MONTMINY: Objection. Form.      10 A. You read that correctly.      11 BY MR. ELSNER:      12 Q. Okay. And this is also a quote from      13 the letter, the 2007 letter from the DEA      14 relating to reporting suspicious orders of      15 controlled substances, is that right?      16 MS. MILLER: Object to form.      17 A. Can you just repeat the question?      18 BY MR. ELSNER:      19 Q. This is a quote from the December,      20 2007 letter from the DEA, is that right?      21 MS. MILLER: Object to form.      22 A. I see the quotes around it. I don't      23 know if that's exactly from the letter.      24 BY MR. ELSNER:</p>

<p style="text-align: right;">Page 50</p> <p>1 Q. And the heading of this slide is the      2 December, 2007 letter from the DEA?      3 A. That's what it says.      4 Q. Do you understand that to be a quote      5 from the DEA letter?      6 MS. MILLER: Object to form.      7 A. I see what the title says. I see the      8 quote. I can't remember if I pulled that      9 directly out of the letter.      10 BY MR. ELSNER:      11 Q. Well, you're familiar with the letter,      12 right? You know that's what's in the letter      13 from the DEA in December of 2007? You've seen      14 it before?      15 MS. MILLER: Object to form.      16 A. I read the letter. I haven't read      17 that letter in a long time, I can't remember      18 every word in the letter, or every quote in the      19 letter.      20 BY MR. ELSNER:      21 Q. That was a pretty important part of      22 the letter, though, from the DEA in December of      23 2007, wasn't it?      24 MS. MILLER: Object to form.</p>	<p style="text-align: right;">Page 52</p> <p>1 this letter is to reiterate the responsibilities      2 of controlled substance manufacturers and      3 distributors to inform DEA of suspicious orders      4 in accordance with 21 CFR 1301.74," is that      5 right?      6 MS. MILLER: Object to form.      7 BY MR. ELSNER:      8 Q. Is that what it says?      9 A. That's what it says.      10 Q. Okay. And that's what you put in the      11 very first bullet in your presentation on      12 Page 4?      13 MR. MONTMINY: Objection. Form.      14 A. That looks to be what I put.      15 BY MR. ELSNER:      16 Q. Okay. And if you look at the last      17 bullet on your presentation on Page 4,      18 "Suspicious orders include orders of unusual      19 size, orders deviating substantially from a      20 normal pattern, and orders of unusual      21 frequency." Is that what you wrote?      22 MR. MONTMINY: Object to form.      23 MS. MILLER: Objection. Form.      24 A. That's what it says here.</p>
<p style="text-align: right;">Page 51</p> <p>1 MR. MONTMINY: Objection.      2 A. It was part of the letter.      3 BY MR. ELSNER:      4 Q. Here's the Exhibit 4 which is the      5 December 27, 2007 letter from the DEA.      6 (Whereupon, CVS-Schiavo-4 was marked      7 for identification.)      8 BY MR. ELSNER:      9 Q. This is the letter that was sent to      10 every manufacturer and distributor of controlled      11 substances, is that right?      12 MS. MILLER: Object to form.      13 A. That's how I understood the letter. I      14 don't know if I can confirm that was --      15 BY MR. ELSNER:      16 Q. Is that what it says in the first      17 letter of the -- the first sentence of the      18 letter? It says "This letter is being sent to      19 every entity in the United States registered      20 with the Drug Enforcement" Agency -- sorry --      21 "Administration to manufacture or distribute      22 controlled substances." Is that what it says?      23 A. That is what it says in the letter.      24 Q. The next sentence says "The purpose of</p>	<p style="text-align: right;">Page 53</p> <p>1 BY MR. ELSNER:      2 Q. And if you go to the last paragraph of      3 the DEA letter from December 27, 2007 in the      4 first line, the last paragraph there. Do you      5 see where I am, beginning "The regulation      6 specifically states"? Are you with me?      7 A. I'm with you.      8 Q. It says "The regulation specifically      9 states that suspicious orders include orders of      10 unusual size, orders deviating substantially      11 from a normal pattern, and orders of unusual      12 frequency." Is that what it says?      13 A. That's what it says.      14 Q. Okay. And that's what's quoted on      15 Page 4 of your presentation?      16 MS. MILLER: Object to form.      17 A. That looks to align.      18 BY MR. ELSNER:      19 Q. Turn to Page 5 of your presentation.      20 Actually, let me show you Exhibit 5 real quick.      21 (Whereupon, CVS-Schiavo-5 was marked      22 for identification.)      23 BY MR. ELSNER:      24 Q. This is MR 5.</p>

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<p>1 MS. MILLER: What is the MR?</p> <p>2 MR. ELSNER: It's our internal number</p> <p>3 so she knows what exhibit.</p> <p>4 MS. MILLER: For Motley Rice. I got</p> <p>5 it.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. This is Exhibit 5 to the deposition.</p> <p>8 This is a letter from the DEA dated</p> <p>9 September 27, 2006.</p> <p>10 Were you aware that the DEA had sent a</p> <p>11 letter to distributors of controlled substances</p> <p>12 the year prior to the December 27, 2007 letter?</p> <p>13 MS. MILLER: Object to form.</p> <p>14 Mike, was this produced in connection</p> <p>15 with an e-mail, or is this the --</p> <p>16 MR. ELSNER: This?</p> <p>17 MS. MILLER: Yes.</p> <p>18 MR. ELSNER: It was produced by CVS.</p> <p>19 MS. MILLER: No, I understand. I</p> <p>20 understand. But I'm just asking whether there</p> <p>21 was a cover e-mail or if this is the whole</p> <p>22 document.</p> <p>23 MR. ELSNER: I don't know. I'm not</p> <p>24 sure that it matters. I'm just referencing the</p>	<p>1 BY MR. ELSNER:</p> <p>2 Q. I can clarify this.</p> <p>3 Were you aware when you gave this</p> <p>4 presentation in the Buzzeo Group that the letter</p> <p>5 that you were referencing, the December, 2007</p> <p>6 letter from the DEA, was not the first letter</p> <p>7 that had been sent to distributors of controlled</p> <p>8 substances? Were you aware of that?</p> <p>9 MS. MILLER: Object to form.</p> <p>10 A. I don't recall at that time if I was</p> <p>11 aware of that.</p> <p>12 BY MR. ELSNER:</p> <p>13 Q. Before you began preparation for</p> <p>14 today's deposition in any fashion, while you</p> <p>15 were working at CVS or while you were working at</p> <p>16 Henry Schein, were you aware that the DEA had</p> <p>17 sent a letter in September of 2006 to all</p> <p>18 distributors of controlled substances?</p> <p>19 MS. MILLER: Object to form.</p> <p>20 Do you want to take a minute to look</p> <p>21 at the letter?</p> <p>22 A. Yeah, can I read the letter?</p> <p>23 BY MR. ELSNER:</p> <p>24 Q. You're welcome to look at it.</p>
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<p>1 DEA letter.</p> <p>2 MS. MILLER: I just want to make sure</p> <p>3 the document --</p> <p>4 MR. ELSNER: She knows. That's why</p> <p>5 she's asking.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. Could you refer to the letter? In</p> <p>8 September -- the letter is dated September 27,</p> <p>9 2006. Have you seen that?</p> <p>10 MS. MILLER: Object to form.</p> <p>11 A. I see the date on the letter.</p> <p>12 BY MR. ELSNER:</p> <p>13 Q. Okay. And have you ever seen this</p> <p>14 letter before?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. Have you seen --</p> <p>18 MS. MILLER: I object -- let me just,</p> <p>19 I'm going to object based on attorney work</p> <p>20 product to the extent the question calls for a</p> <p>21 response that would reveal any documents shown</p> <p>22 to the witness in prep, and instruct you not to</p> <p>23 answer to the extent you would reveal any</p> <p>24 communications during our time meeting in prep.</p>	<p>1 (Witness reviewing document.)</p> <p>2 MR. ELSNER: Why don't we go off the</p> <p>3 record. If you're going to read the entire</p> <p>4 letter into the record, I prefer we go off.</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. Have you had enough time to look at</p> <p>7 it?</p> <p>8 MS. MILLER: I don't think we should</p> <p>9 go off the record while the witness has an</p> <p>10 opportunity to review the document. Are you</p> <p>11 ready --</p> <p>12 MR. ELSNER: Well, I have limited</p> <p>13 time. If he's going to read every document in</p> <p>14 full every time I ask a question, we're going to</p> <p>15 go off the record.</p> <p>16 MS. MILLER: He has a right to review</p> <p>17 the document.</p> <p>18 MR. ELSNER: He does. He can</p> <p>19 generally familiarize himself with it. If you</p> <p>20 prepped him on it a couple of days ago, he's</p> <p>21 seen it before.</p> <p>22 MS. MILLER: Object to form.</p> <p>23 Objection to the statement on the record.</p> <p>24 There's no statement by the witness, nor will</p>

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<p>1 there be, as to the documents he reviewed in 2 prep.</p> <p>3 MR. ELSNER: I don't think he's 4 entitled to privilege here.</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. Are you ready to answer the questions, 7 or do you need more time?</p> <p>8 A. Specifically to your question of have 9 I seen this before?</p> <p>10 Q. Yes.</p> <p>11 A. I have not read the whole letter, but 12 this is not -- this doesn't look familiar to me.</p> <p>13 Q. Okay. In the second sentence of the 14 letter it says "The purpose of this letter is to 15 reiterate the responsibilities of controlled 16 substance distributors in view of the 17 prescription drug abuse problem our nation 18 currently faces."</p> <p>19 Were you aware that there is a 20 prescription drug abuse problem in the United 21 States?</p> <p>22 MS. MILLER: Object to form.</p> <p>23 MR. MONTMINY: Object to form.</p> <p>24 A. Are you referring to in 2006 when I</p>	<p>1 other substances. I'm aware of that.</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. Are you aware that that was the reason 4 that the DEA was sending this letter in 2006 and 5 sending a follow-up letter in December of 2007?</p> <p>6 Do you understand that that was the reason those 7 letters were being sent?</p> <p>8 MS. MILLER: Object to form.</p> <p>9 A. At the time of these letters, I don't 10 know.</p> <p>11 BY MR. ELSNER:</p> <p>12 Q. What about when you joined CVS, were 13 you aware of it then?</p> <p>14 MS. MILLER: Object to form.</p> <p>15 A. I'm aware that people abuse drugs, 16 that that happens.</p> <p>17 BY MR. ELSNER:</p> <p>18 Q. Are you aware that that's the purpose 19 behind the Controlled Substances Act and the 20 regulations that we're discussing?</p> <p>21 MS. MILLER: Object to the form.</p> <p>22 A. I don't think I know that's why they 23 wrote the Controlled Substances Act, no.</p> <p>24 BY MR. ELSNER:</p>
Page 59	Page 61
<p>1 read --</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. We can start in 2006 through today.</p> <p>4 A. In 2006, I'm not sure if I was aware 5 of that.</p> <p>6 Q. What about in 2007 through '12 while 7 you were working in DEA compliance at Henry 8 Schein?</p> <p>9 MS. MILLER: Object to form.</p> <p>10 MR. MONTMINY: Object to form.</p> <p>11 A. I think I became aware that there are 12 people who have used drugs.</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. When?</p> <p>15 A. I'm not sure what you're asking.</p> <p>16 Q. I'm asking are you aware, and if so 17 when, that there's a prescription drug abuse 18 problem that the nation currently faces? A 19 prescription drug abuse problem, not any type of 20 drug abuse.</p> <p>21 MR. MONTMINY: Object to form.</p> <p>22 MS. MILLER: Object to form.</p> <p>23 A. Yeah, I'm aware that there are people 24 who abuse prescription drugs and other drugs and</p>	<p>1 Q. Were you aware that Congress had 2 expressly declared that the illegal distribution 3 of controlled substances has a substantial and 4 detrimental effect on the health and the general 5 welfare of the American people?</p> <p>6 MS. MILLER: Object.</p> <p>7 BY MR. ELSNER:</p> <p>8 Q. Were you aware of that?</p> <p>9 MS. MILLER: Object to form.</p> <p>10 A. I'm not aware of that from Congress.</p> <p>11 BY MR. ELSNER:</p> <p>12 Q. Okay. This is in the third paragraph, 13 the last sentence, do you see where I'm at, 14 "Congress has expressly declared"?</p> <p>15 A. I'm sorry, where is it?</p> <p>16 Q. It's in the third paragraph in the 17 last sentence. It says "This responsibility is 18 critical, as Congress has expressly declared 19 that the illegal distribution of controlled 20 substances has a substantial and detrimental 21 effect on the health and general welfare of the 22 American people." Were you aware of that?</p> <p>23 MS. MILLER: Object to form.</p> <p>24 A. I see that written in the letter.</p>

<p style="text-align: right;">Page 62</p> <p>1 This is my first time seeing this -- or      2 recalling seeing this letter.      3 BY MR. ELSNER:      4 Q. If you turn back to your presentation,      5 which is Exhibit 3, the PowerPoint presentation.      6 It has in the next -- on Page 5 there's a title      7 that says October 2009 Meeting with the DEA. Do      8 you see that?      9 A. On Page 5.      10 Q. The heading.      11 A. I see that.      12 Q. Okay. Did I read that accurately?      13 A. "October 2009 meeting with DEA."      14 Q. And this refers to a meeting that      15 Henry Schein had with the DEA in New York, is      16 that right?      17 MR. MONTMINY: Objection. Form.      18 A. I don't remember exactly when that      19 meeting took place, but I know that we had a      20 meeting with the DEA.      21 BY MR. ELSNER:      22 Q. Did you attend that meeting?      23 A. I attended that meeting.      24 Q. That was in Long Island?</p>	<p style="text-align: right;">Page 64</p> <p>1 with these materials in the DEA meeting?      2 MR. MONTMINY: Objection to form.      3 Outside the scope.      4 A. I remember getting a binder during      5 that meeting, or binders being provided.      6 BY MR. ELSNER:      7 Q. Where did you keep those at Henry      8 Schein, if you kept them?      9 MR. MONTMINY: Objection. Form,      10 outside the scope.      11 A. I don't remember where those were      12 maintained.      13 BY MR. ELSNER:      14 Q. Did you maintain them, or did somebody      15 else that attended the meeting take them with      16 them?      17 MR. MONTMINY: Objection. Form,      18 outside the scope.      19 A. I really don't recall.      20 BY MR. ELSNER:      21 Q. Who else was there from Henry Schein      22 other than you?      23 MR. MONTMINY: Objection. Form,      24 outside the scope.</p>
<p style="text-align: right;">Page 63</p> <p>1 A. Yes, that was on Long Island.      2 Q. And in the first bullet here, you --      3 it states "Reiterated what was documented in the      4 December 2007 letter." That refers to the DEA      5 letter of December of 2007 that we were      6 discussing, is that right?      7 MS. MILLER: Object to form.      8 A. Although I don't specifically recall      9 that, it makes sense that that's what it's      10 referring to.      11 BY MR. ELSNER:      12 Q. Okay. And then next it says "Advised      13 what was expected of HSI as a distributor of      14 controlled substances." This is the DEA      15 advising Henry Schein as to what is expected as      16 a distributor of controlled substances. Was      17 that part of the discussion?      18 A. I don't exactly remember the full      19 conversation with the DEA, but that's what it      20 says there.      21 Q. Okay. It says here that there was a      22 binder provided by the DEA which contained      23 regulations, case studies, and ARCOS      24 information. Did the DEA provide Henry Schein</p>	<p style="text-align: right;">Page 65</p> <p>1 A. The only other individuals I      2 specifically recall being there were Len David      3 and Sergio Tejeda.      4 Q. Who is Sergio Tejeda?      5 MR. MONTMINY: Objection to form.      6 A. He was my manager at the time.      7 BY MR. ELSNER:      8 Q. In the last -- do you recall what was      9 in the binder other than what's listed here?      10 A. I don't recall all this being listed      11 being in the binder. I see it says it there. I      12 don't recall -- if this was it, I don't recall      13 what else was in there.      14 Q. In the last bullet it says "Put HSI on      15 notice." Is that what it says?      16 A. That is what it says.      17 Q. And that was to put Henry Schein on      18 notice of its obligations with respect to the      19 distribution of controlled substances, is that      20 right?      21 MR. MONTMINY: Objection. Form.      22 A. I'm not exactly sure what I meant by      23 that.      24 BY MR. ELSNER:</p>

<p style="text-align: right;">Page 66</p> <p>1 Q. You're not sure what you meant by "Put 2 HSI on notice"? Is there anything else they 3 could have put you on notice about that came up 4 in that meeting?</p> <p>5 MS. MILLER: Object to form.</p> <p>6 MR. MONTMINY: Object to form.</p> <p>7 A. I don't recall.</p> <p>8 BY MR. ELSNER:</p> <p>9 Q. But that's what you wrote, is that 10 right?</p> <p>11 MR. MONTMINY: Object to form.</p> <p>12 A. Again, I don't know if I wrote that, 13 but that's what it says in here.</p> <p>14 BY MR. ELSNER:</p> <p>15 Q. That's in the presentation you gave, 16 is that right?</p> <p>17 MS. MILLER: Object to form.</p> <p>18 MR. MONTMINY: Object to form.</p> <p>19 A. I don't know if this is the exact 20 presentation I gave, but that is in this 21 presentation that we're reviewing.</p> <p>22 BY MR. ELSNER:</p> <p>23 Q. You have no reason to believe that 24 it's not in the presentation that you gave to</p>	<p style="text-align: right;">Page 68</p> <p>1 Q. If you turn to the next page of the 2 PowerPoint, this is "HSI SOM Implementation 3 Challenges." Is that what the heading says?</p> <p>4 A. That is what the heading says.</p> <p>5 Q. Okay. One of the challenges that 6 Henry Schein faced from a suspicious order 7 monitoring point of view was the amount of 8 customers that they had, which is listed in the 9 second bullet, right? It says "Amount of 10 customers (386,000 total/36,300 purchase 11 controls)."</p> <p>12 What does purchase controls refer to?</p> <p>13 MR. MONTMINY: Objection. Form, 14 compound.</p> <p>15 A. I'm not exactly sure.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. One of the challenges that Henry 18 Schein faced in its suspicious order monitoring 19 program was the number of customers that it had, 20 is that correct?</p> <p>21 MR. MONTMINY: Objection. Form, 22 outside the scope.</p> <p>23 A. It's documented there as a challenge.</p> <p>24 BY MR. ELSNER:</p>
<p style="text-align: right;">Page 67</p> <p>1 everyone that attended this conference, is that 2 right?</p> <p>3 MR. MONTMINY: Objection. Form.</p> <p>4 A. If you're saying that's what this is, 5 I don't have reason to believe that it isn't, 6 but I don't recall this being the exact 7 presentation.</p> <p>8 BY MR. ELSNER:</p> <p>9 Q. If you turn to the -- let me ask one 10 other question.</p> <p>11 Who asked for the meeting? Did Henry 12 Schein ask for the meeting with the DEA, or did 13 the DEA ask to meet with Henry Schein?</p> <p>14 MR. MONTMINY: Objection. Form, 15 outside the scope.</p> <p>16 A. I believe the DEA asked for this 17 meeting.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. Okay. Do you understand why the DEA 20 asked for the meeting?</p> <p>21 MS. MILLER: Object to form.</p> <p>22 A. I don't know if I ever knew the exact 23 reason why.</p> <p>24 BY MR. ELSNER:</p>	<p style="text-align: right;">Page 69</p> <p>1 Q. And it says it had a "Vast/complicated 2 customer base (Dental/Mental/Vet)," right?</p> <p>3 MS. MILLER: Object to form.</p> <p>4 MR. MONTMINY: Objection. Form.</p> <p>5 A. That is what it says.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. In the fourth bullet, one of the 8 challenges in the SOM implementation at Henry 9 Schein was a "Lack of resources." Is that what 10 it says?</p> <p>11 MR. MONTMINY: Objection. Form.</p> <p>12 A. That is what it says.</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. Lack of resources to do due diligence 15 on new accounts, correct?</p> <p>16 MR. MONTMINY: Objection. Form.</p> <p>17 A. That's what it says.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. To review pending accounts, is that 20 right?</p> <p>21 MR. MONTMINY: Objection. Form, 22 outside the scope.</p> <p>23 A. That's what it says.</p> <p>24 BY MR. ELSNER:</p>

<p style="text-align: right;">Page 70</p> <p>1 Q. And a lack of resources for site 2 visits, correct?</p> <p>3 MR. MONTMINY: Objection. Form, 4 outside the scope.</p> <p>5 A. That is what it says.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. Okay. One of the other implementation 8 challenges for the SOM program under 9 "Sales/Field Sales Representatives" in the 10 second bullet says a "Conflict of interest?"</p> <p>11 What are you referring to there?</p> <p>12 MR. MONTMINY: Objection. Form, 13 outside the scope.</p> <p>14 A. I don't know exactly what I meant when 15 I put that.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. Was there a conflict of interest 18 between those who were trying to sell products 19 and obtain new customers for controlled 20 substances versus compliance?</p> <p>21 MR. MONTMINY: Objection. Form, 22 outside the scope.</p> <p>23 A. I guess there could be, but I guess -- 24 I think that depends on the person, but again I</p>	<p style="text-align: right;">Page 72</p> <p>1 A. Again, I don't know exactly what I 2 meant when I put this together.</p> <p>3 BY MR. ELSNER:</p> <p>4 Q. Well, did you have any difficulties in 5 the Henry Schein customers that you were 6 interacting with to obtain information from them 7 in order that you can conduct your due 8 diligence?</p> <p>9 MR. MONTMINY: Objection. Form.</p> <p>10 A. I can't remember any specific 11 examples, but every interaction with the 12 prescriber was different. Some were easier to 13 work with than others.</p> <p>14 BY MR. ELSNER:</p> <p>15 Q. You don't recall a single instance 16 where there was a client at Henry Schein where 17 you had requested information and they were not 18 cooperating fully with your request for the 19 information?</p> <p>20 MR. MONTMINY: Objection. Form.</p> <p>21 A. I can't recall a time where we had a 22 customer who -- I mean, I recall there being 23 difficult conversations with customers. I don't 24 recall any situations where I couldn't get what</p>
<p style="text-align: right;">Page 71</p> <p>1 don't know exactly what I was referring to here.</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. Is that a potential conflict of 4 interest that could exist within a company 5 related to the monitoring for suspicious orders 6 of controlled substances?</p> <p>7 MR. MONTMINY: Objection. Form.</p> <p>8 A. I don't know. I know specifically at 9 Henry Schein that was not a concern of mine.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. But you wrote "Sales/Field 12 Representatives Conflict of Interest." Is that 13 what you wrote?</p> <p>14 MR. MONTMINY: Object to form.</p> <p>15 A. That's what this document says.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. It also says one of the implementation 18 challenges is "Cooperation from customers," 19 correct?</p> <p>20 MR. MONTMINY: Objection. Form.</p> <p>21 A. That's what it says.</p> <p>22 BY MR. ELSNER:</p> <p>23 Q. What did you mean by that?</p> <p>24 MS. MILLER: Objection. Form.</p>	<p style="text-align: right;">Page 73</p> <p>1 I needed to conduct due diligence.</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. Do you recall conversations with 4 clients that were angry or frustrated that Henry 5 Schein had not distributed or sold a controlled 6 substance to them?</p> <p>7 MR. MONTMINY: Objection. Form, 8 outside the scope.</p> <p>9 A. I don't remember any specific 10 conversations.</p> <p>11 BY MR. ELSNER:</p> <p>12 Q. Do you recall that there were 13 physicians that Henry Schein was distributing 14 drugs to, some of whom were self-medicating?</p> <p>15 MR. MONTMINY: Objection. Form, 16 outside the scope.</p> <p>17 A. I don't recall any specific prescriber 18 that we knew that was self-medicating that we 19 would distribute to. I believe -- sorry.</p> <p>20 BY MR. ELSNER:</p> <p>21 Q. Sorry, I didn't mean to interrupt. I 22 thought you were done.</p> <p>23 A. I believe our process or our policy 24 was not to distribute to self-medicating.</p>

<p style="text-align: right;">Page 74</p> <p>1 Q. Why?</p> <p>2 MR. MONTMINY: Objection. Form,</p> <p>3 outside the scope.</p> <p>4 A. That was our policy. I don't think I</p> <p>5 wrote the policy.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. It's because the drugs are highly</p> <p>8 addictive, right?</p> <p>9 MR. MONTMINY: Objection. Form,</p> <p>10 argumentative.</p> <p>11 A. Not necessarily.</p> <p>12 BY MR. ELSNER:</p> <p>13 Q. You don't understand a controlled</p> <p>14 substance to be potentially highly addictive?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 MR. MONTMINY: Object to form.</p> <p>17 A. I know that some controlled substances</p> <p>18 can be addictive.</p> <p>19 BY MR. ELSNER:</p> <p>20 Q. If you turn to the next page in your</p> <p>21 presentation under "Henry Schein's Suspicious</p> <p>22 Order Monitoring" on Page 7. Do you see where</p> <p>23 I'm at?</p> <p>24 MR. MONTMINY: Objection. Form.</p>	<p style="text-align: right;">Page 76</p> <p>1 Outside the scope.</p> <p>2 A. Drugs that were ordered, we took</p> <p>3 active ingredient into account.</p> <p>4 BY MR. ELSNER:</p> <p>5 Q. So that you understood that if</p> <p>6 somebody ordered two different drugs' names, but</p> <p>7 they had the same active ingredient, you could</p> <p>8 calculate those two together to understand the</p> <p>9 total amount of that substance they were</p> <p>10 ordering, isn't that the purpose?</p> <p>11 MS. MILLER: Object to form.</p> <p>12 MR. MONTMINY: Objection. Form.</p> <p>13 A. I don't recall what the exact purpose</p> <p>14 is, but it was to see for that active ingredient</p> <p>15 how much was being ordered.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. And the only way to do that is to</p> <p>18 measure by active ingredient, you couldn't do it</p> <p>19 by drug name, correct?</p> <p>20 MR. MONTMINY: Object to form.</p> <p>21 MS. MILLER: Object to form.</p> <p>22 A. I don't know that to be the case.</p> <p>23 BY MR. ELSNER:</p> <p>24 Q. When did Henry Schein have a system in</p>
<p style="text-align: right;">Page 75</p> <p>1 A. I see where you're at.</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. And there's a title there about</p> <p>4 "Active Ingredients," is that right?</p> <p>5 A. I see that.</p> <p>6 Q. It says "All quantities and values</p> <p>7 calculated and used in this system are at the</p> <p>8 active ingredient level." What does that mean?</p> <p>9 A. I believe that's looking at both brand</p> <p>10 name and generic drugs if they had the same</p> <p>11 active ingredient.</p> <p>12 Q. So Henry Schein had a -- as a</p> <p>13 component of its suspicious order monitoring</p> <p>14 program was measuring drugs it was selling by</p> <p>15 active ingredient, is that right?</p> <p>16 MS. MILLER: Object to form.</p> <p>17 A. Can you just ask that one more time,</p> <p>18 please?</p> <p>19 BY MR. ELSNER:</p> <p>20 Q. So Henry Schein had as a component of</p> <p>21 its suspicious order monitoring program a system</p> <p>22 to measure drugs it was selling by active</p> <p>23 ingredient?</p> <p>24 MR. MONTMINY: Object to form.</p>	<p style="text-align: right;">Page 77</p> <p>1 place -- you gave this presentation in November</p> <p>2 of 2010. When did Henry Schein have a system in</p> <p>3 place to calculate drugs by active ingredient as</p> <p>4 a component of its suspicious order monitoring</p> <p>5 system?</p> <p>6 MS. MILLER: Object to form.</p> <p>7 MR. MONTMINY: Objection to form.</p> <p>8 Outside the scope.</p> <p>9 A. I don't recall when that happened.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. Well, it was in place in 2010, right?</p> <p>12 MS. MILLER: Object to form.</p> <p>13 A. I don't recall.</p> <p>14 BY MR. ELSNER:</p> <p>15 Q. That's what this presentation says,</p> <p>16 right?</p> <p>17 MS. MILLER: Object to form.</p> <p>18 A. It looks like that's what this is</p> <p>19 indicating.</p> <p>20 BY MR. ELSNER:</p> <p>21 Q. Do you know whether it was in the new</p> <p>22 system that Henry Schein created or whether it</p> <p>23 was in the existing system that Henry Schein</p> <p>24 created when you arrived and took over these</p>

<p>1 roles?</p> <p>2 MR. MONTMINY: Objection. Form,</p> <p>3 outside the scope.</p> <p>4 A. I don't recall what -- prior to me</p> <p>5 getting involved in this, I don't recall what</p> <p>6 the old system had or used, but that was a</p> <p>7 component of the new enhanced system that we</p> <p>8 had.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. It was a component of the newer</p> <p>11 enhanced system. And when did that come into</p> <p>12 place?</p> <p>13 MR. MONTMINY: Objection. Form,</p> <p>14 outside the scope.</p> <p>15 A. I don't recall.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. Well, was the enhanced system the</p> <p>18 system that you were working on when you moved</p> <p>19 into a new role at Henry Schein related to DEA</p> <p>20 regulations in 2007?</p> <p>21 MR. MONTMINY: Objection. Form,</p> <p>22 outside the scope.</p> <p>23 A. I'm not sure I understand the</p> <p>24 question.</p>	<p>Page 78</p> <p>1 position in 2007 and when you were working on</p> <p>2 the enhanced system?</p> <p>3 MR. MONTMINY: Objection. Form.</p> <p>4 A. I really don't recall much about the</p> <p>5 old system, and I don't remember.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. Did you work on the enhanced system?</p> <p>8 A. I was part of a team that worked on</p> <p>9 the enhanced system.</p> <p>10 Q. Okay. What's your best estimate of</p> <p>11 when you were doing that work?</p> <p>12 MR. MONTMINY: Objection. Form.</p> <p>13 A. I don't remember. Sometime when I</p> <p>14 started the role.</p> <p>15 BY MR. ELSNER:</p> <p>16 Q. When you gave this presentation in</p> <p>17 November of 2010, was the enhanced system fully</p> <p>18 active or not?</p> <p>19 MR. MONTMINY: Objection. Form.</p> <p>20 A. I don't recall.</p> <p>21 MR. ELSNER: I'm going to mark this</p> <p>22 next document as Exhibit 6.</p> <p>23 (Whereupon, CVS-Schiavo-6 was marked</p> <p>24 for identification.)</p>
<p>Page 79</p> <p>1 BY MR. ELSNER:</p> <p>2 Q. I'm trying to understand the time</p> <p>3 frame. You said that there was a SOM system,</p> <p>4 and then at Henry Schein there was an enhanced</p> <p>5 SOM system. So I'm trying to understand the</p> <p>6 time frame of when you were working on the</p> <p>7 enhanced SOM system. That's part of what you</p> <p>8 were working on, is that right?</p> <p>9 MR. MONTMINY: Object to form.</p> <p>10 MS. MILLER: Object to form.</p> <p>11 A. At some point during my role we worked</p> <p>12 on enhancing our SOM system.</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. But at some time when, 2007, '8, '9?</p> <p>15 A. I really don't recall.</p> <p>16 Q. That's part of what you were working</p> <p>17 on was the enhanced system, though, when you</p> <p>18 moved into that position in 2007, is that right?</p> <p>19 MR. MONTMINY: Objection. Form.</p> <p>20 A. I don't recall what I was doing when I</p> <p>21 went into that position.</p> <p>22 BY MR. ELSNER:</p> <p>23 Q. Well, what's your best memory of what</p> <p>24 system was in place when you moved into that</p>	<p>Page 81</p> <p>1 BY MR. ELSNER:</p> <p>2 Q. This is MR 268. Do you see the first</p> <p>3 page is a cover e-mail from you to three</p> <p>4 individuals? Who are the three individuals that</p> <p>5 you sent this e-mail to?</p> <p>6 A. Len David, Mike DiBello, and Sergio</p> <p>7 Tejeda.</p> <p>8 Q. Who are they?</p> <p>9 A. Sergio was my manager at the time.</p> <p>10 Mike was -- I believe he was the director in</p> <p>11 compliance who Sergio reported up to. And I</p> <p>12 believe at the time Len David was our chief</p> <p>13 compliance officer who Mike reported up to.</p> <p>14 Q. This e-mail is dated October 20, 2009,</p> <p>15 is that right?</p> <p>16 A. That's what it says.</p> <p>17 Q. The subject of the e-mail is "DEA</p> <p>18 Meeting 10-21-09," is that right?</p> <p>19 A. That's what it says.</p> <p>20 Q. And it says "Len." This is you</p> <p>21 writing. "Len, Attached please find the handout</p> <p>22 we prepared for tomorrow's meeting with the</p> <p>23 DEA." Is that right?</p> <p>24 A. I don't recall writing this e-mail,</p>

<p style="text-align: right;">Page 82</p> <p>1 but that's what it says.</p> <p>2 Q. Okay. And it's sent by you to these</p> <p>3 individuals, correct?</p> <p>4 A. It appears to be.</p> <p>5 Q. And it attaches -- you see an</p> <p>6 attachment, "DEA Meeting 10-21-09" on the little</p> <p>7 image there on the first page, is that right?</p> <p>8 A. Yes. I see that.</p> <p>9 Q. It attaches a PowerPoint presentation</p> <p>10 dated October 21, 2009, is that right?</p> <p>11 A. That's what it says.</p> <p>12 Q. And this is the PowerPoint</p> <p>13 presentation you sent to the group?</p> <p>14 A. If this is that attachment, then it</p> <p>15 appears to be what I must have sent.</p> <p>16 Q. Did you create this PowerPoint</p> <p>17 presentation?</p> <p>18 A. I don't recall this PowerPoint,</p> <p>19 looking at the cover page.</p> <p>20 Q. On the second page there's an overview</p> <p>21 of Henry Schein's business, is that right?</p> <p>22 A. That's what it appears to be.</p> <p>23 Q. And if you turn to the third page of</p> <p>24 the PowerPoint, it lists under "Active</p>	<p style="text-align: right;">Page 84</p> <p>1 the record. I generally do not -- the</p> <p>2 conversation needs to be limited to privilege</p> <p>3 issues and not a conversation about the</p> <p>4 document.</p> <p>5 MS. MILLER: Understood. Understood.</p> <p>6 THE VIDEOGRAPHER: We're going off the</p> <p>7 record at 9:29 a.m.</p> <p>8 (Whereupon, a recess was taken.)</p> <p>9 THE VIDEOGRAPHER: We're back on the</p> <p>10 record at 9:42 a.m.</p> <p>11 BY MR. ELSNER:</p> <p>12 Q. Mr. Schiavo, before we broke I was</p> <p>13 showing you the DEA PowerPoint presentation, and</p> <p>14 we were looking at -- and the date of this is</p> <p>15 October 21, 2009, and we were looking at the</p> <p>16 third page under Henry -- the topic heading of</p> <p>17 that page is "Henry Schein, Inc.'s Suspicious</p> <p>18 Order Monitoring."</p> <p>19 Do you see that?</p> <p>20 A. I see that.</p> <p>21 Q. Okay. And there's a topic here, it</p> <p>22 says "Active ingredients," and it reads "All</p> <p>23 quantities and values calculated and used in</p> <p>24 this system are at the active ingredient level."</p>
<p style="text-align: right;">Page 83</p> <p>1 Ingredients" -- do you see where I'm at?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. It says something strikingly</p> <p>4 similar, "All quantities and values calculated</p> <p>5 and used in this system are at the active</p> <p>6 ingredient level," is that right?</p> <p>7 MR. MONTMINY: Object to form.</p> <p>8 A. That's what it says. So I don't</p> <p>9 remember putting this document together, I don't</p> <p>10 remember if there was input from our legal team,</p> <p>11 so I would like to talk to my lawyer to see what</p> <p>12 I can discuss or -- I don't remember this</p> <p>13 document or the reason it being put together.</p> <p>14 BY MR. ELSNER:</p> <p>15 Q. Well, that's what's written in the</p> <p>16 PowerPoint presentation, right, that under</p> <p>17 Active Ingredients it says "All quantities and</p> <p>18 values calculated and used in this system are at</p> <p>19 the active ingredient level"? Is that what it</p> <p>20 says?</p> <p>21 MS. MILLER: Mike, let's take a break.</p> <p>22 He's asked to confer. He's asked to confer</p> <p>23 about privilege issues.</p> <p>24 MR. ELSNER: All right. We'll go off</p>	<p style="text-align: right;">Page 85</p> <p>1 Did I read that correctly?</p> <p>2 A. That is what it says.</p> <p>3 Q. Okay. So it's true, is it not, that</p> <p>4 as of October of 2009 Henry Schein had a</p> <p>5 suspicious order monitoring system in place that</p> <p>6 tracked drugs by active ingredient?</p> <p>7 MS. MILLER: Object to form.</p> <p>8 A. That's the date of this presentation.</p> <p>9 That's what it says. I don't remember exactly</p> <p>10 when we started doing that, but that's what it</p> <p>11 says.</p> <p>12 BY MR. ELSNER:</p> <p>13 Q. Okay. Meeting with the DEA was an</p> <p>14 important event, right?</p> <p>15 MR. MONTMINY: Objection to form.</p> <p>16 A. We met with the DEA, they asked.</p> <p>17 BY MR. ELSNER:</p> <p>18 Q. But you recognize that to be an</p> <p>19 important event?</p> <p>20 MS. MILLER: Object to form.</p> <p>21 A. I'm not sure what you mean by</p> <p>22 important, but --</p> <p>23 BY MR. ELSNER:</p> <p>24 Q. Well, the DEA regulated Henry Schein's</p>

<p style="text-align: right;">Page 86</p> <p>1 distribution of controlled substances, correct?</p> <p>2 A. Henry Schein was a DEA registrant, and</p> <p>3 there are certain regulations that as a</p> <p>4 registrant we needed to follow.</p> <p>5 Q. And if you don't follow those</p> <p>6 regulations, one of the things that the DEA can</p> <p>7 do is remove your license to sell those drugs,</p> <p>8 correct?</p> <p>9 MS. MILLER: Object to form.</p> <p>10 A. We have a DEA registration. I know</p> <p>11 there's penalties if you don't comply with</p> <p>12 certain regulations.</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. And one of those penalties could be</p> <p>15 suspending or removing the registrant's license,</p> <p>16 correct?</p> <p>17 MS. MILLER: Object to form.</p> <p>18 A. I guess there's various degrees of</p> <p>19 penalties.</p> <p>20 BY MR. ELSNER:</p> <p>21 Q. But you understood those to be</p> <p>22 included among them, correct?</p> <p>23 MR. MONTMINY: Objection to form.</p> <p>24 A. I mean, it's a DEA registration, so...</p>	<p style="text-align: right;">Page 88</p> <p>1 A. I try to be careful. But in terms of</p> <p>2 this document, I don't remember putting it</p> <p>3 together.</p> <p>4 BY MR. ELSNER:</p> <p>5 Q. And the document says that as of this</p> <p>6 date in October of 2009 that Henry Schein had a</p> <p>7 suspicious order monitoring system in place that</p> <p>8 calculated quantities and values using the</p> <p>9 active ingredient level, correct?</p> <p>10 MR. MONTMINY: Objection. Form.</p> <p>11 A. I see that it says that.</p> <p>12 BY MR. ELSNER:</p> <p>13 Q. Okay. And you understand that Henry</p> <p>14 Schein did have such a system in place, is that</p> <p>15 right?</p> <p>16 MR. MONTMINY: Objection. Form.</p> <p>17 A. I understand at some point that was an</p> <p>18 aspect of the system.</p> <p>19 BY MR. ELSNER:</p> <p>20 Q. And you have no reason to believe that</p> <p>21 this is inaccurate, that you told the DEA</p> <p>22 something that was not actually truthful, is</p> <p>23 that right?</p> <p>24 MR. MONTMINY: Objection. Form.</p>
<p style="text-align: right;">Page 87</p> <p>1 BY MR. ELSNER:</p> <p>2 Q. Well, do you know or don't know</p> <p>3 whether the DEA could revoke someone's license?</p> <p>4 MS. MILLER: Object to form.</p> <p>5 A. It's a DEA license. That could be one</p> <p>6 of the penalties.</p> <p>7 BY MR. ELSNER:</p> <p>8 Q. Do you know, or are you just guessing?</p> <p>9 MS. MILLER: Object to form.</p> <p>10 A. I know that if you don't follow</p> <p>11 certain DEA regulations there's various degrees</p> <p>12 of penalties.</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. And it would be important for you,</p> <p>15 wouldn't it, in meeting with the DEA that the</p> <p>16 information that you told them was accurate,</p> <p>17 right?</p> <p>18 MR. MONTMINY: Objection to form.</p> <p>19 A. I don't ever recall putting anything</p> <p>20 together with the intent of being inaccurate.</p> <p>21 BY MR. ELSNER:</p> <p>22 Q. Because -- and you were careful,</p> <p>23 weren't you?</p> <p>24 MS. MILLER: Object to form.</p>	<p style="text-align: right;">Page 89</p> <p>1 A. I don't recall nor do I -- would I</p> <p>2 intend to be inaccurate to the DEA, but</p> <p>3 specifically to this, I don't remember putting</p> <p>4 this together, I don't specifically know exactly</p> <p>5 what it was referring to, so...</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. Here's what I'm trying to understand,</p> <p>8 because given the way that your answers are to</p> <p>9 me, it sounds like maybe you were telling the</p> <p>10 DEA one thing that actually wasn't happening in</p> <p>11 place at Henry Schein, is that true?</p> <p>12 MR. MONTMINY: Objection to form.</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. Or is it that you really, truthfully</p> <p>15 try to make the information you told the DEA as</p> <p>16 accurate as possible?</p> <p>17 MR. MONTMINY: Objection. Form.</p> <p>18 A. Speaking for me personally, I would</p> <p>19 not try to be inaccurate.</p> <p>20 BY MR. ELSNER:</p> <p>21 Q. Okay. You would try to be truthful to</p> <p>22 the DEA, right?</p> <p>23 A. I can speak for myself, yes, I would</p> <p>24 try to be truthful.</p>

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<p>1     Q. Okay. So if you turn two pages later      2 to the same DEA presentation, it says "Henry      3 Schein, Inc.'s Suspicious Order Monitoring" on      4 the top.</p> <p>5       Do you see that?</p> <p>6     A. I see that.</p> <p>7     Q. Okay. And among the factors that the      8 model looks at at the end, it reads "The types      9 of indicators that the model will be looking for      10 are the customers monthly activity compared to      11 his: Six month average, Twelve month average,      12 Twelve month maximum, Twenty-four month maximum,      13 and Other various trending factors." Did I read      14 that correctly?</p> <p>15     A. That is what it says.</p> <p>16     Q. Okay. So is it true that Henry Schein      17 had a system in place that you were monitoring a      18 customer's monthly purchases of controlled      19 substances based on the prior 6-month and prior      20 12-month average?</p> <p>21     MR. MONTMINY: Objection. Form.</p> <p>22     A. At the time of this meeting, I cannot      23 remember exactly what the system was.</p> <p>24 BY MR. ELSNER:</p>	<p>1 outside the scope.</p> <p>2       MR. ELSNER: Can you explain that      3 objection? Because I don't understand it.</p> <p>4       MR. MONTMINY: Sure. We can have a      5 running objection if you want, but essentially      6 he's here to speak in his personal capacity.</p> <p>7 There was no notice provided to Schein that he      8 was a former employee and no opportunity to      9 prepare for this, and as of yet you haven't      10 asked a single question about CVS.</p> <p>11       MR. ELSNER: Well, under the protocol      12 I don't need to separately notice it. I do need      13 to notify you if I intend to use a document he      14 hasn't seen before, which I haven't. And I      15 think this is all fair game. So I'm happy to      16 let you have a continuing objection to the use,      17 but I don't think we need to interrupt the      18 deposition with the same scope objections      19 throughout.</p> <p>20       MR. MONTMINY: Okay.</p> <p>21 BY MR. ELSNER:</p> <p>22       Q. Can we go back to my question? I      23 asked you if you could explain to me what the      24 other various trending factors means.</p>
<p>1     Q. But this is what was written and      2 presented to the DEA, correct?</p> <p>3       MR. MONTMINY: Objection. Form.</p> <p>4     A. Based on that cover e-mail, this looks      5 like what was reviewed with the DEA.</p> <p>6 BY MR. ELSNER:</p> <p>7       Q. And you wouldn't try to tell the DEA      8 something that was untrue, right?</p> <p>9     A. I would not intend to be untrue to the      10 DEA.</p> <p>11       Q. Okay. So then it also says that the      12 system is looking at 12-month maximums and      13 24-month maximums, is that right?</p> <p>14       MR. MONTMINY: Objection. Form.</p> <p>15     A. That's what it says.</p> <p>16 BY MR. ELSNER:</p> <p>17       Q. Okay. And then it says "Other various      18 trending factors." What does other various      19 trending factors mean?</p> <p>20     A. I don't recall what that's referring      21 to.</p> <p>22       Q. Who at Henry Schein set the 12-month      23 max and the 24-month max?</p> <p>24       MR. MONTMINY: Objection. Form,</p>	<p>1       A. I don't recall what that's referring      2 to.</p> <p>3       Q. Okay. And then I also asked who at      4 Henry Schein, to your knowledge, set the      5 12-month max and the 24-month maximums?</p> <p>6       A. I don't recall who set that.</p> <p>7       Q. Do you know what those maximums were?</p> <p>8       A. I don't recall how that worked.</p> <p>9       Q. You said that the suspicious order      10 monitoring system was only one component of the      11 due diligence program at Henry Schein. What      12 were the others for controlled substances?</p> <p>13       A. I mean, at a high level it was -- we      14 had an algorithm, or algorithms, and we had a      15 due diligence process. Those were two main      16 parts.</p> <p>17       Q. And the algorithm is a component of      18 the suspicious order monitoring system, right?</p> <p>19       A. The algorithm or algorithms were part      20 of the process.</p> <p>21       Q. Okay. And then so the other component      22 to that is due diligence based on orders that      23 were flagged or triggered by the suspicious      24 order monitoring system, correct?</p>

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<p>1        MR. MONTMINY: Objection. Form.</p> <p>2        A. That was part of the process.</p> <p>3 BY MR. ELSNER:</p> <p>4        Q. If you go two pages further under</p> <p>5 "Standard Operating Procedures/Policies," it</p> <p>6 says "Henry Schein Has Implemented and Enhanced</p> <p>7 Many of Our Policies and Procedures," and then</p> <p>8 it lists some things, including "Suspicious</p> <p>9 Order Monitoring Policy."</p> <p>10       Does this refresh your recollection</p> <p>11 that as of 2009 the enhanced system had been put</p> <p>12 into place at Henry Schein with respect to</p> <p>13 suspicious order monitoring?</p> <p>14       A. At the time of this meeting, I don't</p> <p>15 recall what was in place.</p> <p>16       Q. Is that what's written in the</p> <p>17 presentation?</p> <p>18       MR. MONTMINY: Object to form.</p> <p>19       A. It says that "Henry Schein Has</p> <p>20 Implemented and Enhanced Many of Our Policies</p> <p>21 and Procedures."</p> <p>22 BY MR. ELSNER:</p> <p>23       Q. Including the suspicious order</p> <p>24 monitoring program, correct?</p>	<p>1        A. I knew of a customer questionnaire.</p> <p>2        Q. Did you use it?</p> <p>3        A. Specifically the one that it's</p> <p>4 referring to, I don't know. I know we had a</p> <p>5 customer questionnaire that we used to guide due</p> <p>6 diligence.</p> <p>7        Q. Did you use it, the customer</p> <p>8 questionnaire?</p> <p>9        MR. MONTMINY: Objection. Form, asked</p> <p>10 and answered.</p> <p>11       A. At this time?</p> <p>12 BY MR. ELSNER:</p> <p>13       Q. At any time.</p> <p>14       MR. MONTMINY: Same objection.</p> <p>15       A. At my time at Henry Schein, I had used</p> <p>16 a customer questionnaire to -- as a guideline</p> <p>17 for due diligence.</p> <p>18 BY MR. ELSNER:</p> <p>19       Q. And you would send that questionnaire</p> <p>20 out to doctors and others that were ordering</p> <p>21 controlled substances, is that right?</p> <p>22       A. Potentially.</p> <p>23       Q. And you'd review those responses?</p> <p>24       A. Either myself or someone else on the</p>
<p>1        A. That is one of the sub-bullets.</p> <p>2        Q. And then if you go two pages further,</p> <p>3 there's a "New Account Setup" page, and there's</p> <p>4 a list of items that you -- one page forward.</p> <p>5 Do you see where I'm at?</p> <p>6        A. Okay.</p> <p>7        Q. And this is the due diligence done for</p> <p>8 new account setups at Henry Schein as of 2009,</p> <p>9 is that right?</p> <p>10       A. Again, at this time I don't exactly</p> <p>11 recall what the processes were.</p> <p>12       Q. But that's what's in the presentation</p> <p>13 that you gave to the DEA?</p> <p>14       A. That is what's --</p> <p>15       MR. MONTMINY: Object to form.</p> <p>16       A. That is what's in this presentation.</p> <p>17 BY MR. ELSNER:</p> <p>18       Q. Okay. And it included a customer</p> <p>19 questionnaire for every customer ordering</p> <p>20 controlled substances, is that right?</p> <p>21       A. I see that's what it says there.</p> <p>22       Q. And did you work with that customer</p> <p>23 questionnaire for customers while at Henry</p> <p>24 Schein?</p>	<p>1        team would review responses.</p> <p>2        Q. And on the last page under "Pain</p> <p>3 Management Clinics - Due Diligence Process," the</p> <p>4 third bullet, it reads "Mandatory full</p> <p>5 regulatory audit is required for final approval"</p> <p>6 to receive controlled substances, is that right?</p> <p>7        A. That's what it says.</p> <p>8        Q. Okay. And included "Inventory</p> <p>9 controls, Security systems/protocols, Interview</p> <p>10 with the doctor or owner, and a Comprehensive</p> <p>11 audit report including pictures of the facility</p> <p>12 and background information," is that right?</p> <p>13       MR. MONTMINY: Object to form.</p> <p>14       A. That is what it says.</p> <p>15 BY MR. ELSNER:</p> <p>16       Q. Were you involved in this process at</p> <p>17 Henry Schein to collect the information for this</p> <p>18 mandatory full regulatory audit?</p> <p>19       A. Specifically at this time I don't</p> <p>20 fully recall what my role is or was with doing</p> <p>21 that.</p> <p>22       Q. What about later on at Henry Schein?</p> <p>23       A. At some point while I worked at Henry</p> <p>24 Schein that was part of my responsibilities, to</p>

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<p>1 do due diligence.</p> <p>2 Q. And this was a component of Henry</p> <p>3 Schein's know your customer policies, is that</p> <p>4 right?</p> <p>5 MR. MONTMINY: Object to form.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. To collect this information?</p> <p>8 MS. MILLER: Object to form.</p> <p>9 MR. MONTMINY: I'd like to re-assert</p> <p>10 my objection and make it clear that this witness</p> <p>11 does not represent Henry Schein in this</p> <p>12 deposition.</p> <p>13 MR. ELSNER: You can object. Speaking</p> <p>14 objections are not permitted.</p> <p>15 BY MR. ELSNER:</p> <p>16 Q. Go ahead.</p> <p>17 A. Can you just repeat the question?</p> <p>18 Q. I had asked whether these -- reviewing</p> <p>19 these questionnaires and reviewing the</p> <p>20 information in the mandatory regulatory audits</p> <p>21 is the know your customer information that was</p> <p>22 collected at Henry Schein.</p> <p>23 MR. MONTMINY: Objection. Form.</p> <p>24 A. I know at some part -- at some point</p>	<p>1 MR. MONTMINY: Object to form.</p> <p>2 A. I see that written there. In</p> <p>3 reference to know your customer policy, I don't</p> <p>4 recall a know your customer policy that we had.</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. But that's what's written here?</p> <p>7 A. "Know Your Customer" questionnaire is</p> <p>8 sent to account" I see is what is written there.</p> <p>9 Q. Did Henry Schein have a know your</p> <p>10 customer policy in 2010?</p> <p>11 MR. MONTMINY: Objection. Form.</p> <p>12 A. I don't recall.</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. If you turn to Page 13 of the</p> <p>15 PowerPoint presentation for the Buzzeo</p> <p>16 conference, under -- the topic there is</p> <p>17 "Questionnaires," is that right?</p> <p>18 A. Questionnaires, yes.</p> <p>19 Q. Okay. And there are "3 categories of</p> <p>20 questionnaires developed," it reads. "Know your</p> <p>21 customer" is one, correct?</p> <p>22 A. I see that.</p> <p>23 Q. "Self Assessment Questionnaire" and</p> <p>24 "Extensive Site Visit Questionnaire," is that</p>
<p>1 these do look like pieces of information that we</p> <p>2 might look at for customers if doing due</p> <p>3 diligence.</p> <p>4 BY MR. ELSNER:</p> <p>5 Q. If you turn back to the PowerPoint</p> <p>6 presentation that you gave at the conference, on</p> <p>7 Page 10 under the --</p> <p>8 MR. MONTMINY: Object to the form of</p> <p>9 that statement.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. Page 10 under "The Pend Process." Do</p> <p>12 you see where I'm at?</p> <p>13 A. Page 10, "The Pend Process."</p> <p>14 Q. Under "Know Your Customer" in the</p> <p>15 middle, do you see where I am?</p> <p>16 A. I see where you are.</p> <p>17 Q. It says "questionnaire is sent to</p> <p>18 account. Once received back and we are still</p> <p>19 not comfortable releasing the order, a more</p> <p>20 extensive questionnaire is sent out. If still</p> <p>21 not comfortable, a phone interview or site visit</p> <p>22 will be scheduled if necessary." Those are the</p> <p>23 components in part of the know your customer</p> <p>24 process at Henry Schein, is that correct?</p>	<p>1 right?</p> <p>2 MS. MILLER: Object to form.</p> <p>3 A. I see where that's written.</p> <p>4 BY MR. ELSNER:</p> <p>5 Q. And it lists some sample questions at</p> <p>6 the bottom of the PowerPoint presentation,</p> <p>7 correct?</p> <p>8 A. I see that.</p> <p>9 Q. It includes "Do you accept medical</p> <p>10 insurance?" And "What percentage pay insurance"</p> <p>11 versus pay in cash? Is that one of the sample</p> <p>12 questions?</p> <p>13 A. "Cash, credit," yes.</p> <p>14 Q. Okay. And "Do you dispense...to</p> <p>15 out-of-state patients" is another inquiry,</p> <p>16 correct?</p> <p>17 A. I see that as one of the questions</p> <p>18 listed.</p> <p>19 Q. All right. On Page 14, the next page,</p> <p>20 it refers to site visits. Do you see that?</p> <p>21 A. "Site visits consist of." I see that.</p> <p>22 Q. Okay. And they're "Conducted on 'high</p> <p>23 risk' accounts and accounts that we are not</p> <p>24 comfortable with after initial due diligence,"</p>

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<p>1 is that right?</p> <p>2 MS. MILLER: Object to form.</p> <p>3 A. I don't know if it was always the case</p> <p>4 for just high-risk accounts, but I see where it</p> <p>5 says here on high-risk accounts.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. Was it sometimes for other accounts,</p> <p>8 not high-risk accounts?</p> <p>9 A. I don't remember all the instances we</p> <p>10 did site visits.</p> <p>11 Q. The process, under item 2, could take</p> <p>12 anywhere from 6 to 8 weeks to complete, is that</p> <p>13 right?</p> <p>14 MS. MILLER: Object to form.</p> <p>15 A. I don't remember the exact time frame</p> <p>16 it took to complete.</p> <p>17 BY MR. ELSNER:</p> <p>18 Q. That's what it says here, though,</p> <p>19 right?</p> <p>20 A. It says "Initially, the process could</p> <p>21 took anywhere from six to eight weeks to</p> <p>22 complete."</p> <p>23 Q. Okay. And on the bottom it says,</p> <p>24 "Site visits consist of," and it lists a number</p>	<p>1 right?</p> <p>2 MS. MILLER: Object to form.</p> <p>3 BY MR. ELSNER:</p> <p>4 Q. Yes, no?</p> <p>5 A. I can't say. It's case-by-case.</p> <p>6 Q. It's on the criteria that you listed,</p> <p>7 is that right?</p> <p>8 MS. MILLER: Object to form.</p> <p>9 A. It's listed as one of the elements we</p> <p>10 looked at.</p> <p>11 BY MR. ELSNER:</p> <p>12 Q. Okay. "Inventory reconciliations."</p> <p>13 What's that?</p> <p>14 A. I don't recall exactly what that is,</p> <p>15 but some kind of inventory review.</p> <p>16 Q. Inventory of what, the controlled</p> <p>17 substances they had on hand?</p> <p>18 MR. MONTMINY: Objection to form.</p> <p>19 A. I think just inventory in general.</p> <p>20 BY MR. ELSNER:</p> <p>21 Q. The site visit also consisted of</p> <p>22 security controls, is that right?</p> <p>23 MR. MONTMINY: Objection. Form.</p> <p>24 A. That's what it says.</p>
<p style="text-align: center;">Page 103</p> <p>1 of things, including observing patients in the</p> <p>2 waiting room. Is that one?</p> <p>3 MR. MONTMINY: Objection. Form.</p> <p>4 A. That's what it says.</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. Cars in the parking lot?</p> <p>7 A. That is what it says.</p> <p>8 Q. What were you looking for for cars in</p> <p>9 the parking lot, what kind of cars?</p> <p>10 MR. MONTMINY: Object to form.</p> <p>11 A. Could be anything from was it a full</p> <p>12 parking lot to out of state license plates.</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. Because out of state license plates</p> <p>15 may be an indicator of diversion, is that right?</p> <p>16 MS. MILLER: Object to form.</p> <p>17 A. No, not necessarily.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. It could be a red flag?</p> <p>20 MS. MILLER: Object to form.</p> <p>21 A. It was one of the things that we</p> <p>22 looked at. Could be nothing.</p> <p>23 BY MR. ELSNER:</p> <p>24 Q. Could be nothing, could be something,</p>	<p style="text-align: center;">Page 105</p> <p>1 BY MR. ELSNER:</p> <p>2 Q. Pictures?</p> <p>3 MR. MONTMINY: Same objection.</p> <p>4 A. It says that there.</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. Observing the surrounding</p> <p>7 neighborhood?</p> <p>8 MR. MONTMINY: Object to form.</p> <p>9 A. That's what it says.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. And "Recordkeeping/Protocols"?</p> <p>12 MR. MONTMINY: Object to form.</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. Correct?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. That's what it says.</p> <p>17 BY MR. ELSNER:</p> <p>18 Q. These were in elements of the know</p> <p>19 your customer or site visit review. They were</p> <p>20 part of the presentation that you gave in this</p> <p>21 conference, correct?</p> <p>22 MR. MONTMINY: Objection. Form.</p> <p>23 A. That is what it says in this document.</p> <p>24 BY MR. ELSNER:</p>

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<p>1 Q. You said you had a copy of this 2 document. Where do you maintain a copy of this 3 presentation?</p> <p>4 MR. MONTMINY: Objection. Form.</p> <p>5 A. I don't know.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. Was it home, or is it at work?</p> <p>8 MR. MONTMINY: Objection. Form.</p> <p>9 A. I don't recall. I haven't seen this 10 in a long time.</p> <p>11 BY MR. ELSNER:</p> <p>12 Q. Do you recall telling me in the 13 beginning that you had a copy of this 14 presentation?</p> <p>15 MR. MONTMINY: Objection. Form.</p> <p>16 A. I recall saying I might have a copy.</p> <p>17 BY MR. ELSNER:</p> <p>18 Q. If you had a copy, where would it be?</p> <p>19 MS. MILLER: Object to form.</p> <p>20 MR. MONTMINY: Object to form.</p> <p>21 A. I don't know.</p> <p>22 MR. ELSNER: I'd ask that counsel 23 speak with the witness and see if they can 24 locate a copy of the presentation. If they can,</p>	<p>1 BY MR. ELSNER: 2 Q. Okay. Why did you decide to leave 3 Henry Schein for CVS? 4 A. I don't recall all the reasons, but I 5 thought it was a good opportunity. 6 Q. Tell me about the process. Did you 7 see an advertisement and apply to it, or did you 8 send out a resume to CVS? How was it that you 9 came to be hired by CVS, as you understand it? 10 MS. MILLER: Object to form. 11 A. I believe I was contacted by CVS, and 12 had conversations through them reaching out. 13 BY MR. ELSNER: 14 Q. Who was it that contacted you from 15 CVS? 16 A. I don't remember exactly who it was. 17 It was someone from the talent acquisitions 18 department. 19 Q. And did they meet you at a conference, 20 or did they cold call you? 21 MS. MILLER: Object to form. 22 A. I'm not sure what caused them to reach 23 out. 24 BY MR. ELSNER:</p>
<p>1 if they produce it to us.</p> <p>2 MS. MILLER: We can discuss it off the 3 record.</p> <p>4 BY MR. ELSNER:</p> <p>5 Q. When did you join CVS?</p> <p>6 A. 2012.</p> <p>7 Q. And what were you hired at CVS to do?</p> <p>8 MS. MILLER: Object to form.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. As you understand it.</p> <p>11 A. I know some of my early projects were 12 working on a compliance review program as well 13 as some pharmacy initiatives that the company 14 was working on.</p> <p>15 Q. Your title was senior compliance 16 manager when you were hired in August of 2012, 17 is that right?</p> <p>18 A. That sounds right.</p> <p>19 Q. Did you replace someone when you were 20 hired by CVS, or was this a new position?</p> <p>21 MS. MILLER: Object to form.</p> <p>22 A. I believe the position that I was 23 going into, I don't believe I was replacing 24 someone in that position.</p>	<p>1 Q. Were you working at Henry Schein at 2 the time? 3 A. Yes. 4 Q. Had you met anyone from CVS as part of 5 your work in the area of compliance for Henry 6 Schein? 7 MS. MILLER: Object to form. 8 A. Not that I recall. 9 BY MR. ELSNER: 10 Q. Did they tell you that they were 11 looking to fill a particular position at CVS? 12 MS. MILLER: Object to form. 13 A. I believe they called me about a 14 specific position. 15 BY MR. ELSNER: 16 Q. What was your understanding of the 17 position that they called you about? 18 MS. MILLER: Object to form. 19 A. I don't recall. 20 BY MR. ELSNER: 21 Q. At the time you were in Greenville, 22 South Carolina, is that right? 23 A. Yes, I believe so. 24 Q. Were you hired by CVS Pharmacy or CVS</p>

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<p>1 Health? What entity of CVS hired you?</p> <p>2 MS. MILLER: Object to form.</p> <p>3 A. I don't recall. It was CVS.</p> <p>4 BY MR. ELSNER:</p> <p>5 Q. Who was your supervisor at CVS when</p> <p>6 you were hired in August of 2012?</p> <p>7 A. It was Tom Bourque.</p> <p>8 Q. What was Tom Bourque's position?</p> <p>9 A. At the time I believe he was the</p> <p>10 director of regulatory compliance.</p> <p>11 Q. Did he interview you for the position?</p> <p>12 A. Yes.</p> <p>13 Q. Did anyone else participate in the</p> <p>14 interview process?</p> <p>15 A. Yes.</p> <p>16 Q. Who else?</p> <p>17 A. I can recall meeting with talent</p> <p>18 acquisition, and then other members of the, at</p> <p>19 the time, the regulatory compliance team.</p> <p>20 Q. What are their names?</p> <p>21 A. Aside from Tom, I remember Karen</p> <p>22 DiStefano.</p> <p>23 Q. Any others?</p> <p>24 A. And Susan Delmonico.</p>	<p>1 suspicious order monitoring system other than</p> <p>2 Tom Bourque involved in any of -- let me strike</p> <p>3 that.</p> <p>4 When you were hired by CVS, did you</p> <p>5 receive any training on the system in place for</p> <p>6 suspicious order monitoring of controlled</p> <p>7 substances at CVS?</p> <p>8 A. Not that I recall.</p> <p>9 Q. Did you meet with anyone to discuss</p> <p>10 the suspicious order monitoring system in place</p> <p>11 at CVS when you were first hired?</p> <p>12 A. When you say first hired...</p> <p>13 Q. In August of 2012 and through the</p> <p>14 remainder of that year.</p> <p>15 A. At some point before the end of the</p> <p>16 year I do remember having contact with --</p> <p>17 actually I don't know who ran the SOM at that</p> <p>18 point so I don't -- I can't -- I don't know.</p> <p>19 Q. Well, one of the tasks that you were</p> <p>20 hired to perform by CVS was to create and</p> <p>21 implement the distribution center's order</p> <p>22 monitoring system, right?</p> <p>23 MS. MILLER: Object to form.</p> <p>24 A. Can you repeat that?</p>
<p style="text-align: center;">Page 111</p> <p>1 Q. What is Susan Delmonico's position?</p> <p>2 A. At the time of the interview?</p> <p>3 Q. Yes.</p> <p>4 A. I don't exactly recall what her role</p> <p>5 was.</p> <p>6 Q. Did you have any people who reported</p> <p>7 to you when you were hired by CVS in August of</p> <p>8 2012?</p> <p>9 A. There was one person.</p> <p>10 Q. Who was that?</p> <p>11 A. Cassandra Castro.</p> <p>12 Q. And what was her title and what were</p> <p>13 her job responsibilities?</p> <p>14 MS. MILLER: Object to form.</p> <p>15 A. At that time I don't recall.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. What was she doing for you under your</p> <p>18 supervision?</p> <p>19 A. I think at the time I was hired, I</p> <p>20 think she was also learning the company as I</p> <p>21 was. And then I know one of her big</p> <p>22 responsibilities was the regulatory review</p> <p>23 program.</p> <p>24 Q. Was anyone who was involved in the</p>	<p style="text-align: center;">Page 113</p> <p>1 BY MR. ELSNER:</p> <p>2 Q. One of the tasks that you were hired</p> <p>3 by CVS to perform was to create and implement</p> <p>4 the distribution center's order monitoring</p> <p>5 system, correct?</p> <p>6 MS. MILLER: Object to form.</p> <p>7 A. That was never relayed to me as my</p> <p>8 responsibility during the interview process.</p> <p>9 MR. ELSNER: Mark this next document</p> <p>10 as the next exhibit.</p> <p>11 (Whereupon, CVS-Schiavo-7 was marked</p> <p>12 for identification.)</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. This is Schiavo Exhibit 7. This is an</p> <p>15 e-mail from you to Cassandra Castro dated</p> <p>16 January 24, 2013, right? Do you see that on the</p> <p>17 top of the e-mail?</p> <p>18 A. I see that.</p> <p>19 Q. Okay. And if you look to the third</p> <p>20 paragraph -- sorry. Strike that.</p> <p>21 If we go to the very top of the</p> <p>22 e-mail, it says "Various Projects I Have Been</p> <p>23 Involved in."</p> <p>24 Do you see that?</p>

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<p>1     A. I see where it says that.</p> <p>2     Q. Okay. And then there's a list of</p> <p>3     bullets, right?</p> <p>4     A. Yes.</p> <p>5     Q. They're faint, though they're there, I</p> <p>6     think. If you go to the third bullet, it reads</p> <p>7     as one of the various projects that you've been</p> <p>8     involved in the "Creation and Implementation of</p> <p>9     our Distribution Center's Suspicious Order</p> <p>10    Monitoring System - In order for CVS to comply</p> <p>11    with 21 CFR 1301.74(b)," correct?</p> <p>12    MS. MILLER: Object to form.</p> <p>13    A. I see where it says that.</p> <p>14 BY MR. ELSNER:</p> <p>15    Q. And this is what you wrote, correct?</p> <p>16    MS. MILLER: Object to form.</p> <p>17    A. I see my -- this e-mail is from me. I</p> <p>18    don't remember writing this.</p> <p>19 BY MR. ELSNER:</p> <p>20    Q. But that's what the e-mail states,</p> <p>21    correct?</p> <p>22    A. That's what it says.</p> <p>23    Q. So if one of your tasks was to create</p> <p>24    and implement the distribution center's order</p>	<p>1 effort before creating a new system to</p> <p>2 understand what system was in place?</p> <p>3 MS. MILLER: Object to form.</p> <p>4 A. I don't recall the extent of the</p> <p>5 effort. I knew there was a system in place.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. How did you know?</p> <p>8 MS. MILLER: Object to form.</p> <p>9 A. I don't recall how I became aware.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. The system at this time was being</p> <p>12 operated out of the Indianapolis distribution</p> <p>13 center for CVS. Did you ever travel to</p> <p>14 Indianapolis in 2012 to meet with anyone to</p> <p>15 understand the system?</p> <p>16 MS. MILLER: Object to form.</p> <p>17 A. No.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. Did you ever have any conference calls</p> <p>20 with them in 2012 that you recall for an</p> <p>21 explanation of how the system was operating in</p> <p>22 2012?</p> <p>23 MS. MILLER: Object to form.</p> <p>24 A. I don't recall.</p>
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<p>1 monitoring system, what effort did you undertake</p> <p>2 when you were hired by CVS to understand what</p> <p>3 current system was in place?</p> <p>4 MS. MILLER: Object to form.</p> <p>5 A. I don't recall what steps I took to</p> <p>6 understand the current process they had in</p> <p>7 place.</p> <p>8 BY MR. ELSNER:</p> <p>9 Q. Did you ever meet with John Mortelliti</p> <p>10 and sit down with him and ask him to explain to</p> <p>11 you how the suspicious order monitoring system</p> <p>12 was working at CVS?</p> <p>13 MS. MILLER: Object to form.</p> <p>14 A. I don't recall.</p> <p>15 BY MR. ELSNER:</p> <p>16 Q. What about Frank Devlin, did you ever</p> <p>17 sit down with him and discuss CVS's suspicious</p> <p>18 order monitoring system?</p> <p>19 MS. MILLER: Object to form.</p> <p>20 A. I know that I spoke to Frank Devlin.</p> <p>21 I can't remember the specifics of any</p> <p>22 conversation.</p> <p>23 BY MR. ELSNER:</p> <p>24 Q. Well, what effort -- did you make an</p>	<p>1 BY MR. ELSNER:</p> <p>2 Q. Prior to joining CVS, you did not have</p> <p>3 a great deal of experience in distribution or</p> <p>4 dispensing of controlled substances by</p> <p>5 pharmacies, correct?</p> <p>6 MS. MILLER: Objection to form.</p> <p>7 A. Not sure I understand the question.</p> <p>8 BY MR. ELSNER:</p> <p>9 Q. Well, prior to joining CVS, you didn't</p> <p>10 have a lot of experience in working with</p> <p>11 pharmacies, right? Henry Schein's customer base</p> <p>12 were medical practitioners, dentists, and vets,</p> <p>13 right?</p> <p>14 MS. MILLER: Object to form.</p> <p>15 A. And at some point I believe there was</p> <p>16 pharmacies.</p> <p>17 BY MR. ELSNER:</p> <p>18 Q. Well, did you feel like you had a lot</p> <p>19 of pharmacy experience when you joined CVS?</p> <p>20 MS. MILLER: Object to form.</p> <p>21 A. I never felt like I didn't.</p> <p>22 BY MR. ELSNER:</p> <p>23 Q. If you look at the same e-mail, in the</p> <p>24 fourth bullet it references a conference that</p>

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<p>1 you attended that was run by the DEA on 9/15.</p> <p>2 Do you see that reference?</p> <p>3 A. I do.</p> <p>4 Q. Okay. And in the second sentence it</p> <p>5 reads "Coming from a background of working for a</p> <p>6 wholesale distributor, the conference was very</p> <p>7 beneficial to see the 'hot topics' among the DEA</p> <p>8 as they pertain to pharmacies and pharmacists."</p> <p>9 Correct? Did I read that correctly?</p> <p>10 MS. MILLER: Go ahead.</p> <p>11 A. I see where it says that.</p> <p>12 BY MR. ELSNER:</p> <p>13 Q. The next sentence reads "After the</p> <p>14 conference, I had a much clearer understanding</p> <p>15 of a pharmacist's responsibility when filling</p> <p>16 prescriptions and the process they are required</p> <p>17 to go through in order to vet each prescription.</p> <p>18 Also, the conference clearly laid out the</p> <p>19 consequences for a pharmacist who does not</p> <p>20 effectively use their professional judgment."</p> <p>21 Did I read that correctly?</p> <p>22 A. I see where I wrote that.</p> <p>23 Q. And you attended the DEA conference</p> <p>24 in -- on 9/15 in New York, is that right?</p>	<p>1 2012?</p> <p>2 MS. MILLER: Object to form.</p> <p>3 A. I don't recall.</p> <p>4 BY MR. ELSNER:</p> <p>5 Q. Did you review the standard operating</p> <p>6 procedures for suspicious order monitoring when</p> <p>7 you joined CVS in 2012?</p> <p>8 A. I don't recall.</p> <p>9 Q. So you don't recall any training, any</p> <p>10 manuals, any procedures, any effort that you</p> <p>11 undertook to understand the current suspicious</p> <p>12 order monitoring system at CVS in 2012, is that</p> <p>13 your testimony?</p> <p>14 MS. MILLER: Object to form.</p> <p>15 Misstates testimony.</p> <p>16 A. I'm saying I specifically don't</p> <p>17 remember if there were or were not.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. What about since, have you received</p> <p>20 any training at CVS in controlled substances?</p> <p>21 A. I'm not sure what you mean by</p> <p>22 training.</p> <p>23 Q. Well, did you attend any presentations</p> <p>24 at CVS? Has anyone given you any training</p>
<p>1 A. I don't remember the date, but that's</p> <p>2 what it says.</p> <p>3 Q. Before we go to the conference, I just</p> <p>4 want to ask a couple other questions.</p> <p>5 When you were hired by CVS, did you</p> <p>6 undergo any training procedures?</p> <p>7 MS. MILLER: Object to form.</p> <p>8 A. I'm not sure what you're referring to</p> <p>9 in regards to --</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. Well, did you have any training</p> <p>12 presentations that you attended?</p> <p>13 MS. MILLER: Object to form.</p> <p>14 A. I don't recall any specific training.</p> <p>15 I don't recall.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. There's no training on</p> <p>18 responsibilities with controlled substances that</p> <p>19 you were shown or given?</p> <p>20 MS. MILLER: Object to form.</p> <p>21 A. I don't recall.</p> <p>22 BY MR. ELSNER:</p> <p>23 Q. Did you receive any other training on</p> <p>24 controlled substances when you joined CVS in</p>	<p>1 manuals on controlled substances?</p> <p>2 MS. MILLER: Object to form.</p> <p>3 BY MR. ELSNER:</p> <p>4 Q. Watched any videos about the</p> <p>5 procedures?</p> <p>6 MS. MILLER: Object to the form.</p> <p>7 A. I don't know what you would constitute</p> <p>8 as training. Have I seen videos on controlled</p> <p>9 substances? Maybe.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. I'm talking about the procedures at</p> <p>12 CVS to prevent for the diversion of controlled</p> <p>13 substances. Are there any training manuals,</p> <p>14 training videos, any information that you</p> <p>15 reviewed to understand the system in place at</p> <p>16 CVS to prevent the diversion of controlled</p> <p>17 substances?</p> <p>18 MS. MILLER: Object to form.</p> <p>19 A. We have a number of policies and</p> <p>20 procedures that, I don't know if you'd refer to</p> <p>21 them as training, but we have policies and</p> <p>22 procedures.</p> <p>23 BY MR. ELSNER:</p> <p>24 Q. No, I understand you have policies and</p>

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<p>1 procedures. I'm trying to -- is there anything 2 other than the policies and procedures? Is 3 there any document that explains the policies 4 and procedures, the importance of the policies 5 and procedures, the reasons behind the policies 6 and procedures with respect to controlled 7 substances that you reviewed or that someone 8 showed to you at CVS?</p> <p>9 MS. MILLER: Object to form.</p> <p>10 A. I don't specifically remember specific 11 trainings. We do have LEARNet trainings that 12 are available. I don't remember specifically.</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. Have you ever gone to those?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. I have taken LEARNet trainings.</p> <p>17 BY MR. ELSNER:</p> <p>18 Q. Is it something online?</p> <p>19 A. Yes, you can take them online.</p> <p>20 Q. How did you take them?</p> <p>21 A. I don't recall if I took them all 22 online.</p> <p>23 Q. Is online one of the options, and is 24 there another option, another format that you</p>	<p>1 BY MR. ELSNER: 2 Q. And did you take that LEARNet program? 3 A. During this time frame? 4 Q. Let's start with ever. 5 A. I know I've reviewed a training that 6 has corresponding responsibility. 7 Q. What was the date? 8 A. I don't recall. 9 Q. Well, after August, 2012, right? 10 A. I know that there are trainings out 11 there that I've seen after 2012. 12 Q. When did you -- when did CVS first put 13 in place these LEARNet sessions, to your 14 knowledge? 15 A. I don't recall. 16 Q. Are you on any kind of medication that 17 would impair your ability to remember? Did you 18 take any kind of medication today that would 19 impact your memory? 20 MS. MILLER: I'm going to object to 21 that question. That's an improper questioning 22 of the witness. 23 MR. ELSNER: It's not. I need to 24 know. That's a standard deposition question at</p>
<p>1 can take the LEARNet? 2 A. I believe there are options -- 3 MS. MILLER: Object to form. 4 A. -- where you can take them not online.</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. What were the topics that you took 7 these sessions on?</p> <p>8 A. Are you talking in this time frame?</p> <p>9 Q. Any time frame.</p> <p>10 A. I have taken a lot of LEARNet courses.</p> <p>11 I don't --</p> <p>12 Q. Have any of those courses dealt with 13 the opioid epidemic in the United States?</p> <p>14 MR. MONTMINY: Object to form.</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. I don't recall any training 17 specifically speaking to an opioid epidemic.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. Did any of the LEARNet programs deal 20 with the proper dispensing of controlled 21 substances that you took?</p> <p>22 MS. MILLER: Object to form.</p> <p>23 A. There are trainings that speak to 24 corresponding responsibility.</p>	<p>1 every deposition. 2 BY MR. ELSNER: 3 Q. Are you on any medications today? 4 MS. MILLER: I object. It's an 5 inappropriate question. 6 BY MR. ELSNER: 7 Q. You can answer. She's raised an 8 objection. 9 A. I'm not on any medication. 10 Q. Thank you. 11 Would you agree with me that there's 12 an opioid crisis in the United States? 13 MS. MILLER: Object to form. 14 A. I know that there are people who abuse 15 drugs. 16 BY MR. ELSNER: 17 Q. Do you understand that the number of 18 people that -- well, do you know that there are 19 people who abuse prescription drugs including 20 opioids? 21 MS. MILLER: Object to form. 22 A. I am aware there are people who have 23 used opioids that have led in an overdose. I am 24 aware of that.</p>

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<p>1 BY MR. ELSNER:</p> <p>2 Q. Are you aware that the DEA and certain 3 government officials have referred to this 4 overdose that people are acquiring from opioids 5 as an epidemic?</p> <p>6 MS. MILLER: Object to form.</p> <p>7 A. I am not aware that I've heard the 8 term epidemic. I'm not aware that that is 9 specifically to prescription medications.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. So you're not aware of whether there's 12 an opioid epidemic in the United States today?</p> <p>13 MS. MILLER: Object to form.</p> <p>14 A. I think, like I said, I'm aware that 15 there are people who abuse drugs.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. Well, certainly there are people who 18 abuse drugs. I'm asking a much more different 19 and targeted question.</p> <p>20 Are you aware that the number of 21 people that have abused opioids has risen to the 22 point of reaching an epidemic proportion in the 23 United States?</p> <p>24 MS. MILLER: Object to form.</p>	<p>1 drugs with prescription, illicit, fentanyl-laced 2 products.</p> <p>3 BY MR. ELSNER:</p> <p>4 Q. How would you -- what level of concern 5 was there within CVS about the number of people 6 overdosing on prescription opioids?</p> <p>7 MS. MILLER: Object to form.</p> <p>8 A. I'm not sure I can speak to the level 9 of concern.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. Did you have a level of concern?</p> <p>12 MS. MILLER: Object to form.</p> <p>13 A. I'm not sure I understand the 14 question.</p> <p>15 BY MR. ELSNER:</p> <p>16 Q. Did you have a level of concern about 17 the number of people that were overdosing as a 18 result of taking prescription opioids in the 19 United States?</p> <p>20 MS. MILLER: Object to form.</p> <p>21 A. A level of -- a level of concern. My 22 focus while being at CVS was to work on the 23 programs that I was working on and implement 24 programs and comply with our processes.</p>
<p>1 MR. DAWSON: Objection.</p> <p>2 A. Well, you keep using the term 3 "epidemic." I am aware that there are people 4 who abuse prescription medications, illicit 5 drugs such as heroin. I'm aware that people 6 have overdosed on drugs.</p> <p>7 BY MR. ELSNER:</p> <p>8 Q. And you understand that's a huge 9 problem in the United States?</p> <p>10 MS. MILLER: Object to form.</p> <p>11 BY MR. ELSNER:</p> <p>12 Q. Do you agree with that or disagree 13 with that?</p> <p>14 MS. MILLER: Object to form.</p> <p>15 A. I would agree that any time that 16 someone passes away that it's not something I'd 17 want to see.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. Well, for sure.</p> <p>20 But do you agree that it's a huge 21 problem?</p> <p>22 MS. MILLER: Object to form.</p> <p>23 A. I'm not sure what you mean by "a huge 24 problem." I'm aware that people overdose on</p>	<p>127</p> <p>1 BY MR. ELSNER:</p> <p>2 Q. Why?</p> <p>3 MS. MILLER: Object.</p> <p>4 BY MR. ELSNER:</p> <p>5 Q. Why was CVS doing that?</p> <p>6 MS. MILLER: Object to form.</p> <p>7 A. Well, I know as a DEA registrant there 8 are DEA regulations that as a company we need to 9 comply with. But the decision on implementing, 10 I mean, that's not -- that wasn't my decision.</p> <p>11 BY MR. ELSNER:</p> <p>12 Q. Well, what was the purpose behind the 13 DEA regulations? Did you understand that the 14 DEA regulations were in place to prevent the 15 diversion of controlled substances, including 16 opioids?</p> <p>17 MS. MILLER: Object to form.</p> <p>18 A. I understand there are DEA 19 regulations.</p> <p>20 BY MR. ELSNER:</p> <p>21 Q. Do you understand the purpose behind 22 the DEA regulations?</p> <p>23 MS. MILLER: Object to form.</p> <p>24 A. I can't say that I'm aware of the</p>

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<p>1 reasoning behind why the DEA wrote the      2 regulations.      3 BY MR. ELSNER:      4 Q. No one at CVS or no one at Henry      5 Schein has ever told you that we need to make      6 sure that our systems concerning the      7 distribution and the sale of controlled      8 substances need to be robust because there is a      9 danger that these products get in the wrong      10 hands through diversion and cause overdoses? No      11 one ever told you that?</p> <p>12 MS. MILLER: Object to form.</p> <p>13 A. I don't recall any conversations      14 specifically.</p> <p>15 BY MR. ELSNER:</p> <p>16 Q. Did you make any effort to --</p> <p>17 MS. MILLER: Can you please just let      18 him finish his answer?</p> <p>19 MR. ELSNER: I'm sorry.</p> <p>20 MS. MILLER: Do you remember where you      21 were?</p> <p>22 A. I just don't recall any specific      23 conversations.</p> <p>24 BY MR. ELSNER:</p>	<p>1 A. I've seen it on the news, online,      2 newspaper.      3 Q. Do you get a newspaper at your house,      4 or do you read online newspapers?      5 A. I mean, I obtain news through      6 different sources.      7 Q. I'm trying to understand the sources.      8 Do you get the New York Times or the      9 Boston Globe, or do you get any local paper to      10 your home?      11 A. I believe I might get the Town of      12 Medway news or something.      13 Q. Okay. What's your best recollection      14 of any publication that you've read an article      15 about the opioid overdoses in the United States?      16 MS. MILLER: Object to form.      17 A. I can't remember a specific article      18 that I've read.      19 BY MR. ELSNER:      20 Q. Have you written any -- have you read      21 any books about opioid abuse?      22 MR. MONTMINY: Object to form.      23 A. Not that I recall.      24 BY MR. ELSNER:</p>
<p style="text-align: center;">Page 131</p> <p>1 Q. Did you yourself make any effort to      2 determine the purpose behind the regulations      3 that you were trying to create systems to      4 protect against the diversion of controlled      5 substances?</p> <p>6 MS. MILLER: Object to the form.</p> <p>7 A. Can you repeat the question?</p> <p>8 BY MR. ELSNER:</p> <p>9 Q. Did you make any efforts to seek to      10 determine the purpose behind the regulations      11 that you were creating systems to prevent      12 diversion of controlled substances for?</p> <p>13 MS. MILLER: Object to form.</p> <p>14 A. I don't recall ever researching a      15 regulation as to the reason why it was written.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. Have you ever read anything about      18 opioid abuse problem in the United States?</p> <p>19 MS. MILLER: Object to form.</p> <p>20 A. I can't specifically recall anything,      21 but I've read about articles or about people      22 overdosing.</p> <p>23 BY MR. ELSNER:</p> <p>24 Q. In what kind of publications?</p>	<p style="text-align: center;">Page 133</p> <p>1 Q. Seen any movies about it?</p> <p>2 MS. MILLER: Object to form.</p> <p>3 A. I have seen movies in which characters      4 have overdosed on medications or drugs.</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. Opioids?</p> <p>7 MS. MILLER: Object to form.</p> <p>8 A. Specifically, I don't recall a      9 specific movie that comes to mind. But I've      10 seen movies where part of the plot are people      11 die of drug overdoses.</p> <p>12 BY MR. ELSNER:</p> <p>13 Q. Do you understand that more people      14 died of a drug overdose from a prescription drug      15 than died in a car accident in recent years?</p> <p>16 MS. MILLER: Object to form.</p> <p>17 A. I don't believe I'd heard that before.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. Did you know that overdose from      20 prescription drugs has been the leading cause of      21 death in the United States?</p> <p>22 MS. MILLER: Object to form.</p> <p>23 A. I don't believe I specifically knew      24 that.</p>

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<p>1 BY MR. ELSNER:</p> <p>2 Q. I'm going to show you what we marked</p> <p>3 as Exhibit 8.</p> <p>4 (Whereupon, CVS-Schiavo-8 was marked</p> <p>5 for identification.)</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. This is the PowerPoint presentation</p> <p>8 from the DEA. This is MR 3. This is from</p> <p>9 September of 2012 in Long Island, New York.</p> <p>10 This is the conference that you attended, the</p> <p>11 DEA conference that you attended. And this</p> <p>12 presentation was put together by Joseph</p> <p>13 Rannazzisi who is the deputy assistant</p> <p>14 administrator of the DEA.</p> <p>15 Do you see that on the first page?</p> <p>16 MR. MONTMINY: Object to form.</p> <p>17 A. I see that.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. I want you to turn to the fourth page</p> <p>20 of the document, and it says "Commonly Abused</p> <p>21 Controlled Pharmaceuticals."</p> <p>22 Do you see that?</p> <p>23 A. I see where it says that.</p> <p>24 Q. And you're aware, are you not, that</p>	<p>1 THE VIDEOGRAPHER: We're back on the</p> <p>2 record at 10:55 a.m.</p> <p>3 BY MR. ELSNER:</p> <p>4 Q. Mr. Schiavo, I'm going to ask you to</p> <p>5 go to the next tab which you now have in front</p> <p>6 of me from this PowerPoint that the DEA</p> <p>7 presented at the conference you attended, and it</p> <p>8 describes the "Economic Impact - the Cascading</p> <p>9 Effect." That's the title of the slide, is that</p> <p>10 correct?</p> <p>11 MS. MILLER: Object to form.</p> <p>12 A. That is what the slide says.</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. It says that in 2006 the estimated</p> <p>15 cost in the United States from non-medical use</p> <p>16 of prescription opioids was \$53.4 billion. Did</p> <p>17 I read that correctly?</p> <p>18 A. I see where it says that.</p> <p>19 Q. And it lists five drugs on the bottom</p> <p>20 which account for two-thirds of the economic</p> <p>21 burden.</p> <p>22 Do you see that?</p> <p>23 A. I don't see where it says that they</p> <p>24 account for two-thirds, but I see drugs listed</p>
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<p>1 hydrocodone was one of the commonly abused</p> <p>2 pharmaceuticals?</p> <p>3 MS. MILLER: Object to form.</p> <p>4 A. I am aware that hydrocodone is one of</p> <p>5 the drugs that someone can abuse.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. Are you aware that it's a commonly</p> <p>8 abused controlled substance?</p> <p>9 MS. MILLER: Object to form.</p> <p>10 A. I don't know what you mean by common,</p> <p>11 but I'm aware that it can be abused.</p> <p>12 BY MR. ELSNER:</p> <p>13 Q. As well as OxyContin and oxycodone,</p> <p>14 would you agree?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. I am aware that those are drugs that</p> <p>17 can be abused.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. Okay. I'm going to have you turn --</p> <p>20 MR. ELSNER: Can we go off the record</p> <p>21 for about 15 seconds?</p> <p>22 THE VIDEOGRAPHER: We're going off the</p> <p>23 record at 10:38 a.m.</p> <p>24 (Whereupon, a recess was taken.)</p>	<p>1 at the bottom.</p> <p>2 There, it says it, yes.</p> <p>3 Q. And those drugs include OxyContin,</p> <p>4 oxycodone, hydrocodone, among others, correct?</p> <p>5 MS. MILLER: Object to form.</p> <p>6 A. It looks like there's two other drugs</p> <p>7 listed than you named.</p> <p>8 BY MR. ELSNER:</p> <p>9 Q. And it includes all of those, correct?</p> <p>10 A. That's what it says.</p> <p>11 MS. MILLER: Object to form.</p> <p>12 BY MR. ELSNER:</p> <p>13 Q. And these are drugs that were</p> <p>14 dispensed by CVS pharmacies, correct?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. I did not -- I didn't work for CVS in</p> <p>17 2006. I can't answer that.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. Were these drugs that were dispensed</p> <p>20 by CVS in 2012 when you joined CVS?</p> <p>21 MS. MILLER: Object to form.</p> <p>22 A. I can't say for sure that all of these</p> <p>23 were.</p> <p>24 BY MR. ELSNER:</p>

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<p>1 Q. Hydrocodone is among the drugs that      2 were distributed by CVS when you joined them in      3 2012, correct?</p> <p>4 MS. MILLER: Object to form.</p> <p>5 A. Hydrocodone was one of the drugs that      6 pharmacies dispensed in 2012.</p> <p>7 BY MR. ELSNER:</p> <p>8 Q. And it was also a drug that CVS      9 distributed to its own pharmacies in 2012,      10 correct?</p> <p>11 MS. MILLER: Object to form.</p> <p>12 A. I do believe some of our distribution      13 centers distributed hydrocodone to pharmacies.</p> <p>14 BY MR. ELSNER:</p> <p>15 Q. Okay. If you turn to the next tab,      16 the next Post-it, it says "Emergency Room Data      17 2004 to 2009."</p> <p>18 Do you see that?</p> <p>19 A. I see that.</p> <p>20 Q. Okay. And it reads the increase of      21 98.4 percent of ER visits attributable to      22 pharmaceuticals alone.</p> <p>23 Did I read that correctly?</p> <p>24 A. I see where it says that.</p>	<p>1 MS. MILLER: Object to form.</p> <p>2 A. I see the top bullet.</p> <p>3 BY MR. ELSNER:</p> <p>4 Q. Now we're talking about, we're      5 breaking it down, "Prescription Drugs most      6 frequently implicated: Opiates/Opioids pain      7 relievers," and it lists hydrocodone products as      8 124.5 percent increase.</p> <p>9 Do you see that?</p> <p>10 MS. MILLER: Object to form.</p> <p>11 A. I see where it lists hydrocodone and      12 124.5 percent increase.</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. Okay. If you go to the next sticky,      15 there's been an increase and rise in poisoning      16 deaths from opioids and analgesics, correct,      17 from 1999 through 2007? Do you see that?</p> <p>18 MS. MILLER: Object to form.</p> <p>19 A. I see the chart.</p> <p>20 BY MR. ELSNER:</p> <p>21 Q. Okay. Were you aware prior to this      22 conference that there was this rising death --      23 poisoning deaths from opioids?</p> <p>24 MS. MILLER: Object to form.</p>
<p style="text-align: center;">Page 139</p> <p>1 Q. Okay. And beneath that it says,      2 "Prescription drugs most frequently implicated:      3 Opiates/opioids pain relievers," and it lists      4 "Oxycodone products 242.2 percent increase,"      5 correct? Is that what it says?</p> <p>6 MS. MILLER: Object to form.</p> <p>7 A. It looks like that's what it says.</p> <p>8 BY MR. ELSNER:</p> <p>9 Q. Between 2004 and 2009 for hydrocodone      10 there was 124.5 percent increase in ER visits,      11 correct?</p> <p>12 MS. MILLER: Object to form.</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. Is that what it says?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. Can you reread what part you were      17 reading.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. So we're talking about emergency room      20 data from 2004 to 2009, right?</p> <p>21 A. Yes.</p> <p>22 Q. And we're talking about increases in      23 ER visits attributable to those pharmaceuticals.</p> <p>24 Are you with me?</p>	<p style="text-align: center;">Page 141</p> <p>1 A. I don't believe I was aware of this      2 exact data in this chart.</p> <p>3 BY MR. ELSNER:</p> <p>4 Q. Okay. If you go to the next tab, the      5 title is "Number of Forensic Cases, 2001 to      6 2010."</p> <p>7 Do you see that?</p> <p>8 MS. MILLER: Object to form.</p> <p>9 A. I see that on the slide.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. And you see in 2001 there's sort of --      12 if you just look at the hydrocodone tab, which      13 is the green. Are you with me? In 2010 it's      14 slightly over 10,000, correct?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. In 2001, slightly over 10,000?</p> <p>18 A. It looks like that's what the chart is      19 indicating.</p> <p>20 Q. Okay. And that by 2010 for      21 hydrocodone there's been a 253 percent increase      22 in forensic cases, correct?</p> <p>23 MS. MILLER: Object to form.</p> <p>24 A. I see that on the chart. I am not</p>

<p style="text-align: right;">Page 142</p> <p>1 sure what's meant by "forensic cases," though.      2 I'm not sure what this is saying.      3 BY MR. ELSNER:      4 Q. Okay. Were you aware that there had      5 been a 250 percent increase in hydrocodone      6 overdoses from 2001 to 2010 before this      7 conference?      8 MS. MILLER: Object to form.      9 A. Yeah, I'm not exactly sure what      10 forensic cases mean, and I'm not sure, so I      11 can't say I know what that 253 percent --      12 BY MR. ELSNER:      13 Q. You don't know that forensic cases      14 refers to an overdose?      15 MS. MILLER: Object to form.      16 BY MR. ELSNER:      17 Q. What's your understanding of the word      18 forensic?      19 A. Not exactly sure what the definition      20 is.      21 Q. Forensic refers to death.      22 MS. MILLER: Object to form.      23 BY MR. ELSNER:      24 Q. You don't know?</p>	<p style="text-align: right;">Page 144</p> <p>1 A. I don't know exactly what's meant by      2 sold. And I do see that the hydrocodone line is      3 higher than other lines.      4 BY MR. ELSNER:      5 Q. Well, what do you believe sold means?      6 A. In terms of --      7 MS. MILLER: Object to form.      8 A. In the terms of this slide, I'm not      9 sure.      10 BY MR. ELSNER:      11 Q. Were you aware that there were more      12 prescriptions filled and sales of hydrocodone      13 than there were for Lipitor in the United      14 States?      15 MS. MILLER: Object to form.      16 A. Just based on this chart saying      17 "Prescription Drugs Sold," which I'm not --      18 still not sure exactly what sold means, the      19 hydrocodone bar is larger than the Lipitor bar.      20 BY MR. ELSNER:      21 Q. Do you know whether CVS sold more      22 hydrocodone than it did Lipitor?      23 MS. MILLER: Object to form.      24 A. I don't know if I would -- I wouldn't</p>
<p style="text-align: right;">Page 143</p> <p>1 A. I don't know the exact definition.      2 Q. If you go to the next sticky, sort of      3 a cover page, an introductory page, it reads      4 that the most commonly prescribed prescription      5 medicine is hydrocodone/acetaminophen.      6 Did I read that correctly?      7 A. That looks to be what it says.      8 Q. Okay. Were you aware prior to this      9 conference that hydrocodone/acetaminophen was      10 the most commonly prescribed prescription      11 medicine in the United States?      12 MS. MILLER: Object to form.      13 A. I don't recall if I knew that.      14 BY MR. ELSNER:      15 Q. If you go to the next tab, which is on      16 the very next page, the title is the "Top Five      17 Prescription Drugs Sold in the United States."      18 Do you see that? Is that what the title says?      19 A. That is what the title says.      20 Q. Okay. And do you see that hydrocodone      21 is significantly higher than all the other      22 drugs, prescription drugs, sold in the United      23 States?      24 MS. MILLER: Object to form.</p>	<p style="text-align: right;">Page 145</p> <p>1 know that.      2 BY MR. ELSNER:      3 Q. Given the large economic costs as a      4 result of opioid overdoses, and the large number      5 of forensic cases related to overdoses of      6 hydrocodone, and the significantly higher      7 numbers of hydrocodone drugs sold in the United      8 States, did it concern you that there needed to      9 be a robust system at CVS to prevent diversion?      10 MS. MILLER: Object to form.      11 A. In terms of this chart, I don't know      12 what this is showing me because I don't know      13 what sold is referring to.      14 And in terms of having a system at      15 CVS, I knew we needed to have policies or      16 procedures. I knew we had to have a system.      17 BY MR. ELSNER:      18 Q. Did you know that hydrocodone was one      19 of the most widely diverted and abused drugs in      20 the United States?      21 MS. MILLER: Object to form.      22 A. I don't know if I knew it was one of      23 the most highly diverted drugs.      24 BY MR. ELSNER:</p>

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<p>1 Q. Do you have an understanding of what 2 the most highly diverted drugs are in the United 3 States that would be implicated by your 4 suspicious order monitoring system at CVS? 5 MS. MILLER: Object to form. 6 A. So during this time frame I don't know 7 if I had an idea on what they were. 8 BY MR. ELSNER: 9 Q. What about after this time frame when 10 you were at CVS from 2012 on? 11 MS. MILLER: Object to form. 12 A. I don't know if I know all of the 13 highest diverted, all of the drugs, I don't 14 know. 15 BY MR. ELSNER: 16 Q. Who asked you to attend this 17 conference in New York? 18 MS. MILLER: Object to form. 19 BY MR. ELSNER: 20 Q. If anyone. 21 A. I don't recall. 22 Q. Did someone at CVS ask you to go, or 23 did you decide to go on your own? 24 A. I don't recall.</p>	<p>1 relate to the DEA and pharmacies." Is that what 2 you wrote? 3 A. Again, I don't remember writing this 4 document, but that's what it says. 5 Q. Okay. And then it next says "Coming 6 from a background of working for a wholesale 7 distributor, the conference was very beneficial 8 to see the 'hot topics' among the DEA as they 9 pertain to pharmacies and pharmacists." Is that 10 what you wrote? 11 A. I don't remember writing this, but 12 that's what it says. 13 Q. Okay. And in the last sentence of the 14 paragraph, it reads "Also, the conference 15 clearly laid out the consequences for a 16 pharmacist who does not effectively use their 17 professional judgment." Is that what you wrote? 18 MS. MILLER: Object to the form. 19 A. Again, I don't remember writing this, 20 but that's what it says. 21 BY MR. ELSNER: 22 Q. If you turn to page right before that, 23 the very -- at the top "Various Projects I Have 24 Been Involved in."</p>
<p>1 Q. I'm going to show you what we've 2 marked as Schiavo Exhibit 9. 3 (Whereupon, CVS-Schiavo-9 was marked 4 for identification.) 5 BY MR. ELSNER: 6 Q. This is your year-end review for 2012. 7 It's MR 269. Do you see the document? 8 A. MR 260 -- 9 Q. I'm just asking do you recognize this 10 as your year-end review from 2012. It says 11 "Craig Schiavo" on the left-hand side. 12 Do you see that? 13 A. I see it says my name, and I see it 14 says "Year-End Review." 15 Q. You wrote a year-end review while you 16 worked at CVS in 2012 and '13, is that right? 17 MS. MILLER: Object to form. 18 A. I don't remember writing this, but it 19 says this is my year-end review. 20 BY MR. ELSNER: 21 Q. Okay. If you turn to Page 8 of 11, 22 the very last paragraph there, it reads 23 "Attended a conference on 9/15 run by the DEA in 24 New York to stay up on current issues as they</p>	<p>1 Do you see that? 2 A. "Various Projects I Have Been Involved 3 in." 4 Q. Page 7 of 11, is that what it says? 5 A. I see where it says that. 6 Q. Okay. And it says at the very bottom 7 of the page, the very last paragraph there, it 8 says "Creation." Do you see where I'm at? 9 A. Yes. 10 Q. "Creation and implementation of our 11 Distribution Center Suspicious Order Monitoring 12 System" - In order for CVS to comply with 21 CFR 13 1301.74(b), we are required to build and operate 14 a system to track suspicious orders of 15 controlled substances from our CVS Retail 16 Pharmacies." 17 Do you see that? 18 MS. MILLER: Object to form. 19 A. And I don't remember writing this, but 20 I see it's written. 21 BY MR. ELSNER: 22 Q. And then you wrote "By implementing 23 this system along with the appropriate policies 24 and procedures, we will mitigate the risk of</p>
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<p>1 potentially receiving substantial fines from the 2 DEA and possibly the suspension of our DEA 3 registration in both our distribution centers 4 and individual retail pharmacies." Is that what 5 you wrote?</p> <p>6 MS. MILLER: Object to form.</p> <p>7 A. I don't remember writing this, but 8 that's what this says.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. And then it says "To date, I have 11 contributed to the following." And the first 12 one is "Identify gaps in the current SOM system 13 that needed to be addressed when developing the 14 new system." Did I read that correctly?</p> <p>15 A. That's what it says.</p> <p>16 MS. MILLER: Object to form.</p> <p>17 BY MR. ELSNER:</p> <p>18 Q. And this is a review that you wrote 19 and presented to your boss at CVS, is that 20 right?</p> <p>21 MS. MILLER: Object to form.</p> <p>22 A. I don't remember writing this, but 23 this is my year-end review, it appears.</p> <p>24 BY MR. ELSNER:</p>	<p>1 Q. Okay. And he's your boss at this 2 time?</p> <p>3 A. At this time Tom is my boss.</p> <p>4 Q. Okay. And it was also sent to Dean 5 Vanelli, is that right?</p> <p>6 A. It appears to be.</p> <p>7 Q. Okay. And to Aaron Burtner?</p> <p>8 A. Aaron is on here.</p> <p>9 Q. Okay. Who is Aaron Burtner?</p> <p>10 A. Part of Aaron's role I knew to be as 11 one of the analysts for the suspicious order 12 monitoring system.</p> <p>13 Q. That was in place in November of 2012, 14 right?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. That was his position in 2012?</p> <p>18 A. I don't know exactly what Aaron's 19 position was in 2012.</p> <p>20 Q. Did you know he was working on the 21 suspicious order monitoring system?</p> <p>22 MS. MILLER: Object to form.</p> <p>23 A. I believe I knew that Aaron, part of 24 his responsibility had to do with suspicious</p>
<p>1 Q. You don't have any reason to doubt 2 that it is, right?</p> <p>3 A. I don't have a reason to doubt this is 4 my year-end review.</p> <p>5 Q. You don't think anyone at CVS took 6 over your name and did this in secret, do you?</p> <p>7 MS. MILLER: Object to form.</p> <p>8 A. This document has my name on it, it 9 says "Year-End Review." I don't have any reason 10 to believe this is not my year-end review.</p> <p>11 MR. ELSNER: Okay. Mark this next 12 document as Exhibit 10.</p> <p>13 (Whereupon, CVS-Schiavo-10 was marked 14 for identification.)</p> <p>15 BY MR. ELSNER:</p> <p>16 Q. This is an e-mail from you dated 17 November 29, 2012. It's MR 79. Is that right?</p> <p>18 A. I see that.</p> <p>19 Q. Okay. And you send this to a variety 20 of people including your boss, Tom Bourque, is 21 that right?</p> <p>22 A. I don't remember sending this e-mail, 23 but Tom is on this e-mail, and it says it's from 24 me.</p>	<p>1 order monitoring.</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. Okay. It says "Team, As discussed on 4 our call earlier today, please find the attached 5 documents." And the first item is "List of 6 opportunities (My notes) from our meeting on 7 November 27th." Is that what it says?</p> <p>8 A. That is what it says.</p> <p>9 Q. Okay. That's what you wrote?</p> <p>10 A. I don't remember writing this, but the 11 e-mail seems to be from me, and that's what's 12 written there.</p> <p>13 Q. So yes?</p> <p>14 A. I don't remember writing this.</p> <p>15 Q. And attached is a document entitled 16 "Opportunities - Current SOM Process."</p> <p>17 Do you see that?</p> <p>18 A. "Opportunities - Current SOM Process," 19 yes.</p> <p>20 Q. Let me ask you one question. When you 21 came back from the DEA conference that you 22 attended, other than writing the review in your 23 report, did you discuss what you heard at the 24 conference with anyone at CVS?</p>

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<p>1 MS. MILLER: Object to form.</p> <p>2 A. Again, I don't remember writing the 3 review, and I don't remember specific 4 conversations I had around the conference.</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. Was this -- did you attend any other 7 DEA conferences while you were employed by CVS?</p> <p>8 A. I don't recall any other conferences 9 in 2012.</p> <p>10 Q. I didn't ask about 2012. I said at 11 any time at CVS.</p> <p>12 MS. MILLER: Object to form.</p> <p>13 A. The only conference I can recall was 14 in the last year.</p> <p>15 BY MR. ELSNER:</p> <p>16 Q. What was that on?</p> <p>17 MS. MILLER: Object to form.</p> <p>18 A. It was a controlled substance 19 conference.</p> <p>20 BY MR. ELSNER:</p> <p>21 Q. Where was it held?</p> <p>22 A. Savannah, Georgia.</p> <p>23 Q. Did you save the materials from the 24 conference?</p>	<p>1 BY MR. ELSNER:</p> <p>2 Q. But that's what you wrote, right,</p> <p>3 "Lack of understanding as to" the 4 "characteristics make up the current Algorithm."</p> <p>5 Is that what you wrote?</p> <p>6 MS. MILLER: Object to form.</p> <p>7 A. I see that written there, but I'm 8 not -- I don't see it specified who I'm talking 9 about.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. Well, these are notes of the meeting, 12 right?</p> <p>13 MS. MILLER: Object to form.</p> <p>14 A. I don't recall what meeting this is in 15 reference to.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. These are the opportunities to fix the 18 current SOM program, right? And one of the 19 opportunities that you list that could be 20 improved upon was that there's a lack of 21 understanding as to the characteristics of the 22 algorithm that ran the suspicious order 23 monitoring program, right?</p> <p>24 MS. MILLER: Object to form.</p>
<p>1 A. I don't recall.</p> <p>2 Q. Going back to this document, were your 3 notes from the meeting of November 27th, 2012, 4 it says "Opportunities -- Current SOM Process." 5 This memo is meant to describe opportunities to 6 change or fix the current SOM process at CVS, is 7 that right?</p> <p>8 MS. MILLER: Object to form.</p> <p>9 A. So again, I don't -- I don't remember 10 drafting this document, especially for the 11 purposes of it being my notes from a meeting. I 12 see where it says that on the previous. I don't 13 recall what specific my intentions were in 14 drafting this document.</p> <p>15 BY MR. ELSNER:</p> <p>16 Q. Would you agree with me that at this 17 time in November of 2012 that there was a lack 18 of understanding as to what characteristics make 19 up the current algorithm for the suspicious 20 order monitoring system at CVS?</p> <p>21 MS. MILLER: Object to form.</p> <p>22 A. I see what the first line says, but I 23 can't say that there was a lack of understanding 24 by everyone at CVS.</p>	<p>1 A. Again, I don't recall why I put this 2 document together. But I don't recall there 3 ever being a time where I thought the current 4 process needed to be fixed.</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. Well, do you agree that there was an 7 opportunity -- you didn't think there was any 8 opportunity to fix anything at all about the 9 current SOM system as it existed in November of 10 2012 at CVS?</p> <p>11 MS. MILLER: Object to form.</p> <p>12 A. I don't recall ever an instance where 13 the system needed to be fixed.</p> <p>14 BY MR. ELSNER:</p> <p>15 Q. It was perfect?</p> <p>16 MS. MILLER: Object to form.</p> <p>17 A. I believe it met our obligations.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. That wasn't the question.</p> <p>20 You said you didn't think it needed to 21 be fixed. Was it perfect?</p> <p>22 MS. MILLER: Object to form.</p> <p>23 A. I'm not sure what you mean by 24 "perfect," but it met -- my understanding was it</p>

<p style="text-align: right;">Page 158</p> <p>1 met our obligations.</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. You spent in fall of 2012, through all</p> <p>4 of 2012, all of 2013 into 2014 creating an</p> <p>5 enhanced and new SOM program at CVS. That was</p> <p>6 part of your responsibilities, correct?</p> <p>7 MS. MILLER: Object to form.</p> <p>8 A. I can't recall exactly how long I</p> <p>9 spent working on suspicious order monitoring. I</p> <p>10 had other responsibilities. My role was never</p> <p>11 to fix a system. I played a part on a team that</p> <p>12 was working on enhancing or implementing a new</p> <p>13 system.</p> <p>14 BY MR. ELSNER:</p> <p>15 Q. And it took two years to do that,</p> <p>16 right?</p> <p>17 MS. MILLER: Object to form.</p> <p>18 A. I don't recall how long it took.</p> <p>19 BY MR. ELSNER:</p> <p>20 Q. It wasn't a quick fix, right?</p> <p>21 MS. MILLER: Object to form.</p> <p>22 A. Again, I don't recall us ever doing a</p> <p>23 project to fix our system. We were looking to</p> <p>24 enhance or implement a new system.</p>	<p style="text-align: right;">Page 160</p> <p>1 Q. Then it says "Stores won't get their</p> <p>2 orders in time if all the checks are completed</p> <p>3 up front," right?</p> <p>4 MS. MILLER: Object to form.</p> <p>5 A. I see that's what the document says.</p> <p>6 I'm not exactly sure what that's referring to.</p> <p>7 BY MR. ELSNER:</p> <p>8 Q. What is CAP underneath that in little</p> <p>9 Roman Numeral i, C-A-P?</p> <p>10 MS. MILLER: Object to form.</p> <p>11 A. I don't recall what CAP --</p> <p>12 BY MR. ELSNER:</p> <p>13 Q. You don't know what CAP is?</p> <p>14 A. I don't recall.</p> <p>15 Q. MAX/MIN?</p> <p>16 A. I don't recall MAX/MIN.</p> <p>17 Q. Well, there's a maximum/minimum in the</p> <p>18 amount of drugs, controlled substances, that can</p> <p>19 be shipped to a pharmacy, is that right?</p> <p>20 MS. MILLER: Object to form.</p> <p>21 A. I don't recall what that MAX/MIN is</p> <p>22 referring to.</p> <p>23 BY MR. ELSNER:</p> <p>24 Q. You don't know that maximum and</p>
<p style="text-align: right;">Page 159</p> <p>1 BY MR. ELSNER:</p> <p>2 Q. And it took two years to do that,</p> <p>3 right?</p> <p>4 MS. MILLER: Object to form.</p> <p>5 A. I don't recall how long it took.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. You next list that -- it says "Can we</p> <p>8 do all checks up front?" And then it says</p> <p>9 "Stores won't get orders in time if all checks</p> <p>10 are completed up front."</p> <p>11 Under the current system if you did</p> <p>12 all the checks up front, the stores wouldn't get</p> <p>13 their orders in time, is that correct?</p> <p>14 MS. MILLER: Object to form.</p> <p>15 A. I see the bullet says "Can we do</p> <p>16 checks up front?" I'm not exactly sure what</p> <p>17 that's referring to.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. But that's the question you asked, can</p> <p>20 we do all the checks up front, right?</p> <p>21 MS. MILLER: Object to form.</p> <p>22 A. I don't remember drafting this</p> <p>23 document. That is what it says.</p> <p>24 BY MR. ELSNER:</p>	<p style="text-align: right;">Page 161</p> <p>1 minimum is one of the elements of a suspicious</p> <p>2 order monitoring system? You had one at Henry</p> <p>3 Schein that did that, right?</p> <p>4 MR. MONTMINY: Object to form.</p> <p>5 MS. MILLER: Object to form.</p> <p>6 A. I see this document says "MAX/MIN."</p> <p>7 I'm not sure what that's referring to.</p> <p>8 BY MR. ELSNER:</p> <p>9 Q. No idea?</p> <p>10 MS. MILLER: Object to form.</p> <p>11 A. I'm not sure what that process is or</p> <p>12 what that is.</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. Under number 3 it says "Aaron" -- and</p> <p>15 this is Aaron Burtner, right?</p> <p>16 A. Aaron was on the e-mail that I think</p> <p>17 this attachment was in, so it might be Aaron</p> <p>18 Burtner.</p> <p>19 Q. Could be any other Burtner?</p> <p>20 MS. MILLER: Object to form.</p> <p>21 BY MR. ELSNER:</p> <p>22 Q. Is there any other Aarons that you're</p> <p>23 familiar with at CVS that were working on the</p> <p>24 suspicious order monitoring program?</p>

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<p>1 A. Not that I recall.</p> <p>2 Q. Okay. So "Aaron reviews orders pushed</p> <p>3 through after it is reviewed. Aaron gets all</p> <p>4 the following information: CAP, Algorithm</p> <p>5 Output, Minimum/Maximum."</p> <p>6 What does it mean that Aaron reviews</p> <p>7 the orders pushed through after it is reviewed?</p> <p>8 A. I'm not sure what I was referring to</p> <p>9 there.</p> <p>10 Q. Aaron was in charge of the suspicious</p> <p>11 order monitoring system, and he was based in</p> <p>12 Indianapolis at this time, correct?</p> <p>13 MS. MILLER: Object to form.</p> <p>14 A. I don't recall exactly what Aaron's</p> <p>15 role was especially at this time.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. Were you aware of anyone else that was</p> <p>18 reviewing suspicious orders in the suspicious</p> <p>19 order monitoring system in CVS at this time in</p> <p>20 2012?</p> <p>21 A. I don't recall the individuals that</p> <p>22 were on the SOM team at that time.</p> <p>23 Q. Why is it important to do a due</p> <p>24 diligence review up front as opposed to after?</p>	<p>1 MS. MILLER: Object to form.</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. Is that what you wrote?</p> <p>4 MS. MILLER: Object to form.</p> <p>5 A. I see what's written there, but I</p> <p>6 don't know what "pushed through" means. I don't</p> <p>7 know what that's referring to.</p> <p>8 BY MR. ELSNER:</p> <p>9 Q. Under number 4 it says "By doing the</p> <p>10 'CAPS' we are modifying the order and not</p> <p>11 looking at the actual order from the store."</p> <p>12 What does that mean?</p> <p>13 MS. MILLER: Object to form.</p> <p>14 A. I don't recall what CAPS are, and I</p> <p>15 don't recall ever a time that we weren't looking</p> <p>16 at actual orders from the store. I don't know</p> <p>17 what that means.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. I believe CAPS is modifying the actual</p> <p>20 order that comes into the store, putting it in a</p> <p>21 different form for someone else to review rather</p> <p>22 than looking at the actual order of the</p> <p>23 pharmacy. Were you aware that was a potential</p> <p>24 weakness of the SOM system?</p>
<p style="text-align: center;">Page 163</p> <p>1 MS. MILLER: Object to form.</p> <p>2 Mischaracterizes the document.</p> <p>3 MR. ELSNER: I'm not talking about the</p> <p>4 document.</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. Why is it important to do your reviews</p> <p>7 up front as opposed to after?</p> <p>8 MS. MILLER: Object to form.</p> <p>9 A. I'm not sure what up front is. And</p> <p>10 looking at the document, it's a question mark,</p> <p>11 so I don't know if I'm even stating that, it's a</p> <p>12 question. And I don't know what up front is</p> <p>13 referring to.</p> <p>14 BY MR. ELSNER:</p> <p>15 Q. In number 3 it says that "Aaron is</p> <p>16 reviewing orders pushed through after it is</p> <p>17 reviewed," meaning he gets all the information</p> <p>18 afterwards, not up front, correct?</p> <p>19 MS. MILLER: Object to form.</p> <p>20 A. I don't know what up front means, so I</p> <p>21 can't say what you're saying is accurate.</p> <p>22 BY MR. ELSNER:</p> <p>23 Q. You wrote "Aaron reviews orders pushed</p> <p>24 through after it is reviewed," right?</p>	<p style="text-align: center;">Page 165</p> <p>1 MS. MILLER: Object to form.</p> <p>2 A. I don't recall CAPS being a weakness</p> <p>3 of a system that we had.</p> <p>4 BY MR. ELSNER:</p> <p>5 Q. You wrote "By doing the 'CAPS' we are</p> <p>6 modifying the order and not looking at the</p> <p>7 actual order from the store." That's what you</p> <p>8 wrote, correct?</p> <p>9 MS. MILLER: Object to form.</p> <p>10 A. That's what this document says. I</p> <p>11 don't recall drafting this document, and I don't</p> <p>12 recall exactly what it's referring to.</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. One of the other weaknesses of the SOM</p> <p>15 system in November of 2012 is that if a store</p> <p>16 ordered a controlled substance and it was</p> <p>17 cleared at the beginning of the month, then the</p> <p>18 store could order additional controlled</p> <p>19 substances in the same month without triggering</p> <p>20 the suspicious order monitoring system, isn't</p> <p>21 that right?</p> <p>22 MS. MILLER: Object to form.</p> <p>23 A. I don't -- I don't see where that --</p> <p>24 you state that's a weakness, nor do I recall</p>

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<p>1 that ever being a weakness of the system.</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. Well, these are opportunities to</p> <p>4 enhance the system, correct, to fix it, right?</p> <p>5 MS. MILLER: Object to form.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. Is that what it says in the title?</p> <p>8 MS. MILLER: Object to form.</p> <p>9 A. The document says opportunities.</p> <p>10 Opportunities to me don't mean fixes, they're</p> <p>11 opportunities. This was during a time where we</p> <p>12 were looking to enhance our system, so these are</p> <p>13 my thoughts on paper for enhancement.</p> <p>14 BY MR. ELSNER:</p> <p>15 Q. Opportunities to make it better,</p> <p>16 right?</p> <p>17 MS. MILLER: Object to form.</p> <p>18 A. They're opportunities that we were</p> <p>19 talking about at the time we were putting</p> <p>20 together and developing and enhancing a new</p> <p>21 system.</p> <p>22 BY MR. ELSNER:</p> <p>23 Q. To make the system better, right?</p> <p>24 MS. MILLER: Object to form.</p>	<p>1 Q. And you'd agree with me that that is a</p> <p>2 weakness in the system, would you not?</p> <p>3 MS. MILLER: Object to form.</p> <p>4 BY MR. ELSNER:</p> <p>5 Q. If the store orders in the beginning</p> <p>6 of the month and then it has a subsequent order</p> <p>7 that's not looked at or looked at using old</p> <p>8 data, that's a weakness in the system, correct?</p> <p>9 MS. MILLER: Object to form.</p> <p>10 A. No.</p> <p>11 BY MR. ELSNER:</p> <p>12 Q. You don't think so?</p> <p>13 MS. MILLER: Object to form.</p> <p>14 A. No, not necessarily.</p> <p>15 BY MR. ELSNER:</p> <p>16 Q. What's your title at CVS today?</p> <p>17 A. Director, business compliance officer.</p> <p>18 Q. And what are your responsibilities as</p> <p>19 the director of the business compliance?</p> <p>20 A. My focus is on our retail business,</p> <p>21 and focusing on new laws and regulations.</p> <p>22 Q. And you don't think as the director of</p> <p>23 business compliance that it would be a weakness</p> <p>24 if a store ordered some controlled substance in</p>
<p style="text-align: center;">Page 167</p> <p>1 BY MR. ELSNER:</p> <p>2 Q. They weren't opportunities to make it</p> <p>3 worse, right? You weren't talking about ways to</p> <p>4 make it weaker, were you?</p> <p>5 MS. MILLER: Object to form.</p> <p>6 A. I mean, we were looking to make the</p> <p>7 process better. But at the time it's not that</p> <p>8 our process was broken, I felt we had a good</p> <p>9 process. This is an opportunity for</p> <p>10 enhancement.</p> <p>11 BY MR. ELSNER:</p> <p>12 Q. And one of those opportunities that</p> <p>13 you wrote is if an "order is cleared on the 1st</p> <p>14 of the month and cleared, and store then orders</p> <p>15 again that month it won't be looked at." Is</p> <p>16 that what you wrote?</p> <p>17 MS. MILLER: Object to form.</p> <p>18 A. Again, I don't remember drafting this</p> <p>19 document. That's what it says. But I don't</p> <p>20 ever remember that being the case.</p> <p>21 BY MR. ELSNER:</p> <p>22 Q. But that's what the document says, is</p> <p>23 that right?</p> <p>24 A. That is what this document says.</p>	<p style="text-align: center;">Page 169</p> <p>1 the beginning of the month and then had a</p> <p>2 subsequent order in that same month, that that</p> <p>3 information reviewed is not based on a current</p> <p>4 review of the information but on an old review</p> <p>5 of that information?</p> <p>6 MS. MILLER: Object to form.</p> <p>7 A. I see what the document says. That's</p> <p>8 not how I remember the process being.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. But that's what you wrote, right?</p> <p>11 MS. MILLER: Object to form.</p> <p>12 A. That's what this document says. I</p> <p>13 don't recall writing this document.</p> <p>14 BY MR. ELSNER:</p> <p>15 Q. Fair to say that your memory about</p> <p>16 what was happening in 2011 is better based on</p> <p>17 your notes of that meeting taken the day of or</p> <p>18 the next day than your memory sitting here</p> <p>19 today?</p> <p>20 MS. MILLER: Object to form.</p> <p>21 BY MR. ELSNER:</p> <p>22 Q. Is that true?</p> <p>23 MS. MILLER: Object to form.</p> <p>24 A. Again, I don't remember drafting this</p>

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<p>1 document, I don't remember the meeting that this 2 is referring to, I don't recall this being the 3 process that we followed.</p> <p>4 BY MR. ELSNER:</p> <p>5 Q. But your notes of that meeting would 6 be a more accurate recitation of what was 7 discussed than your memory of it today since you 8 have no memory of the meeting, right?</p> <p>9 MS. MILLER: Object to form.</p> <p>10 A. This is a document of opportunities. 11 I don't remember writing it, I don't remember 12 that being the process, nor do I know if what is 13 in here is accurate since this is not what I 14 recall the process being.</p> <p>15 BY MR. ELSNER:</p> <p>16 Q. That wasn't my question. 17 My question is that what you wrote, 18 your notes of that meeting, would be more 19 accurate as to what took place than your memory 20 of it sitting here today when you've testified 21 that you have no memory of attending the 22 meeting, correct?</p> <p>23 MS. MILLER: Object to form.</p> <p>24 BY MR. ELSNER:</p>	<p>1 BY MR. ELSNER: 2 Q. It's potentially your e-mail that was 3 produced to us by CVS. You're denying that it 4 took place. You're denying the e-mail exists 5 and the notes took place. Is that what you're 6 doing?</p> <p>7 MS. MILLER: Object to form. 8 Misstates his testimony.</p> <p>9 MR. ELSNER: It does not.</p> <p>10 A. I'm not denying there's an e-mail. I 11 see the e-mail.</p> <p>12 BY MR. ELSNER:</p> <p>13 Q. And you see that these are your notes, 14 correct?</p> <p>15 A. I can't say that these are my notes. 16 I don't remember writing this document.</p> <p>17 Q. Sir, I'm entitled to an answer to the 18 question.</p> <p>19 What's more accurate in your mind, 20 your memory of a meeting that you can't remember 21 or your actual notes taken from the meeting, 22 which is more reliable and accurate in your 23 mind?</p> <p>24 MS. MILLER: Object to form.</p>
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<p>1 Q. What's more accurate, your memory now 2 or the notes you took of the meeting then?</p> <p>3 MS. MILLER: Object to form.</p> <p>4 A. I don't recall this being my notes 5 from the meeting, or a meeting.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. But you sent them around to people as 8 your notes of the meeting, right?</p> <p>9 MS. MILLER: Object to form.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. Sir, it's a basic question. What's 12 more reliable, the notes you took at the time, 13 or your memory of those events when you've 14 testified already that you don't remember 15 writing the memo and you don't even remember the 16 meeting?</p> <p>17 MS. MILLER: Object to form.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. You would agree with me that your 20 notes at the time are more accurate, right?</p> <p>21 MS. MILLER: Object to form.</p> <p>22 A. I don't remember writing this 23 document, and I can't confirm this is my notes 24 from the meeting or a meeting.</p>	<p>1 A. I cannot say that these are my 2 reliable notes from a meeting that I don't 3 remember took place and I don't remember 4 writing.</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. Number 6, another opportunity to 7 create a better system is to have an automatic 8 hard stop of orders for controlled substances, 9 correct?</p> <p>10 MS. MILLER: Objection to form.</p> <p>11 A. I see that Number 6, "No automatic 12 hard stops of orders." I see where that's 13 written.</p> <p>14 BY MR. ELSNER:</p> <p>15 Q. It would be better if the system was 16 automatic and didn't require someone to send an 17 e-mail and then hope that someone received the 18 e-mail and stopped the order, correct?</p> <p>19 MS. MILLER: Object to form.</p> <p>20 A. Not necessarily.</p> <p>21 BY MR. ELSNER:</p> <p>22 Q. Does the new system have a hard stop 23 or not?</p> <p>24 MS. MILLER: Object to form.</p>

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<p>1     A. The new system, when an order is      2 flagged, it holds the order.      3 BY MR. ELSNER:      4     Q. Why? Is it a better system than      5 relying on e-mails and phone calls?      6        MS. MILLER: Object to form.      7     A. Not necessarily.      8 BY MR. ELSNER:      9     Q. Why did you change it?      10      MS. MILLER: Object to form.      11     A. The decision was made to change it.      12 BY MR. ELSNER:      13     Q. Did you agree to change it?      14     A. I don't recall having an objection.      15     Q. Did you support it?      16        MS. MILLER: Object to form.      17     A. I don't know if this is the only      18 solution that I would have supported. There's      19 multiple ways of stopping orders, there could      20 have been others, but this is the decision we      21 went with, and I believe I supported the      22 decision we went with.      23 BY MR. ELSNER:      24     Q. Okay. And so that was another</p>	<p>1 BY MR. ELSNER:      2     Q. Well, that's what you wrote under 6A,      3 right, "Happens via e-mail/phone call - DC and      4 LP Manager"? Is that what you wrote?      5        MS. MILLER: Object to form.      6     A. Again, I don't recall writing this      7 document. I see that it says that there. I      8 don't fully recall what the process was.      9 BY MR. ELSNER:      10      Q. In November of 2012 when a suspicious      11 order was flagged or stopped by the system, not      12 all controlled substances to that pharmacy were      13 stopped, correct?      14      MS. MILLER: Object to form.      15     A. So the system flagged orders of      16 interest.      17 BY MR. ELSNER:      18     Q. Yes.      19     A. So that's what it was designed to do.      20     Q. Okay. And when those orders of      21 interest were reviewed and it was determined      22 that there was a potentially suspicious order,      23 additional orders of that same controlled      24 substance would be stopped from being shipped to</p>
<p>1 opportunity to enhance or fix or remedy or      2 create a better system at CVS was to have an      3 automatic hard stop of the order. That's what      4 you wrote, correct?      5        MS. MILLER: Object to form.      6     A. Like I said, I don't recall writing      7 this, and at no time do I recall there ever      8 needing to be a fix of the current SOM system.      9 BY MR. ELSNER:      10     Q. But it was changed, right --      11        MS. MILLER: Object to form.      12 BY MR. ELSNER:      13     Q. -- to a hard stop of the order?      14        MS. MILLER: Object to form.      15     A. Today our process, I believe, has a      16 hard stop.      17 BY MR. ELSNER:      18     Q. Under the old system, in order for the      19 stop to occur someone would either have to send      20 an e-mail or place a phone call in order to do      21 that, correct?      22        MS. MILLER: Object to form.      23     A. I don't fully recall what that process      24 was.</p>	<p>1 the pharmacy, correct?      2        MS. MILLER: Object to form.      3     A. I recall the system when an order      4 flagged, whatever flagged was reviewed.      5 BY MR. ELSNER:      6     Q. Right. And then if there was a      7 decision made that it was a suspicious order,      8 then there would be a stop placed on further      9 shipments of that same drug to that pharmacy,      10 correct?      11        MS. MILLER: Object to form.      12     A. I don't recall what that process was.      13 BY MR. ELSNER:      14     Q. You wrote "Only the order in question      15 is stopped, not all controlled substances" are      16 stopped, correct?      17        MS. MILLER: Object to form.      18     A. I don't remember writing this      19 document, but that is what it says.      20 BY MR. ELSNER:      21     Q. You did a whole risk analysis for CVS      22 on what the procedure should be, right? Whether      23 we stop only that drug, whether we stop all      24 controlled substances, whether we stop only the</p>

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<p>1 drugs in that family of drugs, you did a whole      2 risk analysis of that, correct?      3 MS. MILLER: Object to form.      4 A. I know there were discussions around      5 how to approach it. I don't know if I ever did      6 a deep dive risk assessment.      7 MR. ELSNER: All right. This is Exhibit 11.      8 (Whereupon, CVS-Schiavo-11 was marked      9 for identification.)      10 BY MR. ELSNER:      11 Q. This is an e-mail from you to your      12 boss, Tom Bourque, dated December 13, 2012,      13 correct?      14 A. That's what it looks like.      15 Q. It says "Attached is what I put      16 together for our options on what to do if an      17 order flags." Correct? Is that what you wrote?      18 A. That's what it says.      19 Q. Okay. And the attachment that you      20 sent to your boss, Tom Bourque, says "Suspicious      21 Order Monitoring. Holding of Flagged Order      22 Options," right?      23 A. That's the title of this document.      24 Q. Okay. And on the very bottom of the</p>	<p>1 MS. MILLER: Object to form.      2 A. So I see that on this document.      3 Again, this is a document, until seeing it now,      4 I don't recall writing this document or      5 reviewing this document.      6 BY MR. ELSNER:      7 Q. Okay. And you assessed the risk of      8 that policy and procedure to be high, correct?      9 MS. MILLER: Object to form.      10 A. I see the risk level there indicated      11 high, but I don't know if that was me making      12 that determination or if this was --      13 BY MR. ELSNER:      14 Q. That's what's written on the chart      15 that you sent to your boss Tom Bourque, correct?      16 MS. MILLER: Object to form.      17 A. It appears from the cover e-mail I did      18 send this, and it says "Risk Level, High."      19 BY MR. ELSNER:      20 Q. Okay. And the risk that you describe      21 is that by holding only the controlled substance      22 that is flagged in an order, the store could      23 easily switch to a similar drug of abuse,      24 correct?</p>
<p style="text-align: center;">Page 179</p> <p>1 page, the first page there, 78046, there's a      2 Risks, there's a "Risks" column in the middle.      3 Do you see that?      4 A. I see the Risks column.      5 Q. Okay.      6 MS. MILLER: Do you want to take a      7 minute to review this?      8 A. Yeah, can I read through?      9 BY MR. ELSNER:      10 Q. Sure.      11 (Witness reviewing document.)      12 A. Okay.      13 Q. Are you with me?      14 So if we go to the very bottom of the      15 page, there are three options discussed, right?      16 The last option, the very bottom one says "Hold      17 only the Controlled Substances that was flagged      18 by the SOM System on the order from being sent      19 to the store, along with Future Orders."      20 Meaning they were just going to hold the exact      21 controlled substance that was flagged, correct?      22 MS. MILLER: Object to form.      23 BY MR. ELSNER:      24 Q. Is that what it says?</p>	<p style="text-align: center;">Page 181</p> <p>1 MS. MILLER: Object to form.      2 BY MR. ELSNER:      3 Q. Is that what you wrote?      4 A. I see the document says that. I don't      5 know if I wrote that.      6 Q. But it's on the document that you sent      7 to Tom Bourque, your boss, correct?      8 MS. MILLER: Object to form.      9 A. It's on this document that seems to be      10 that attachment in that e-mail.      11 BY MR. ELSNER:      12 Q. And then under "Comments" you say      13 "This option carries the most risk and would      14 possibly create more 'Suspicious Orders' for      15 that store (from CVS and Outside Vendor), that      16 will be required to be reported to the DEA.      17 This will increase the likelihood of an      18 inspection." Correct?      19 MS. MILLER: Object to form.      20 A. I see where this document says that.      21 BY MR. ELSNER:      22 Q. Okay. It also increases the risk of      23 diversion, right?      24 MS. MILLER: Object to form.</p>

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<p>1 A. It doesn't say that. I don't know.</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. Does it increase the risk of</p> <p>4 diversion? It does, doesn't it?</p> <p>5 MS. MILLER: Object to form.</p> <p>6 A. No.</p> <p>7 BY MR. ELSNER:</p> <p>8 Q. It increases the risk because the</p> <p>9 pharmacy, as you wrote, could switch from one</p> <p>10 drug to another drug of abuse, right?</p> <p>11 MS. MILLER: Object to form.</p> <p>12 A. Again, I don't remember writing this</p> <p>13 document, nor this process that you're referring</p> <p>14 to. I don't know this to be a process we ever</p> <p>15 had, and I don't believe this is a process we</p> <p>16 ever implemented. And I don't know if it would</p> <p>17 increase diversion.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. You wrote under Risks in the middle</p> <p>20 column "the store will easily be able to switch</p> <p>21 to a similar drug of abuse." Correct?</p> <p>22 MS. MILLER: Object to form.</p> <p>23 A. I see where the document says that. I</p> <p>24 don't remember writing that.</p>	<p>1 flagged drug is being held." Is that what you</p> <p>2 wrote?</p> <p>3 A. I don't know if I wrote that.</p> <p>4 Q. That's what the document says that you</p> <p>5 sent to your boss, right?</p> <p>6 A. That is what this document says.</p> <p>7 Q. And then you say "If another</p> <p>8 controlled substance hits our SOM system, or an</p> <p>9 Outside Vendor's SOM system on the next order,</p> <p>10 we or they will be required to report that as</p> <p>11 well. This could trigger questions from the DEA</p> <p>12 on why we are shipping to a store or letting a</p> <p>13 store order that we already identified as</p> <p>14 Suspicious." Is that what you wrote?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. I don't remember writing that.</p> <p>17 BY MR. ELSNER:</p> <p>18 Q. Is that what's in the document that</p> <p>19 you sent to your boss?</p> <p>20 A. That is what's in this document.</p> <p>21 Q. Do you understand that to be a risk of</p> <p>22 this medium option of holding all the drugs in</p> <p>23 the same family group?</p> <p>24 MS. MILLER: Object to form.</p>
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<p>1 BY MR. ELSNER:</p> <p>2 Q. Under the second option, it says "Hold</p> <p>3 All High Risk Controlled Substances, Known</p> <p>4 Combination, and/or Drugs in the Same Family on</p> <p>5 the same flagged order from being sent to the</p> <p>6 store, along with future orders."</p> <p>7 Did I read that correctly?</p> <p>8 MS. MILLER: Object to form.</p> <p>9 A. It looks like that's what the document</p> <p>10 says.</p> <p>11 BY MR. ELSNER:</p> <p>12 Q. And you assessed this as a medium</p> <p>13 risk, correct?</p> <p>14 MS. MILLER: Object to form.</p> <p>15 A. I can't recall if that is my risk</p> <p>16 assessment on that.</p> <p>17 BY MR. ELSNER:</p> <p>18 Q. But that's what the document says,</p> <p>19 right?</p> <p>20 A. I can see on this document under risk</p> <p>21 level, that one indicates medium.</p> <p>22 Q. And under the third bullet under Risks</p> <p>23 it says "Possible that diversion of another</p> <p>24 controlled substance will take place while the</p>	<p>1 A. I can't say whether that is</p> <p>2 specifically a risk of this option, but this is</p> <p>3 another option that I don't know if we ever --</p> <p>4 this was ever our process, nor is it our process</p> <p>5 today.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. In the last comment in that middle</p> <p>8 column, it reads "As part of the DEA</p> <p>9 Regulations, they expect the registrant to 'know</p> <p>10 your customer,' by reporting an order as</p> <p>11 suspicious, while continuing to ship controlled</p> <p>12 substances, the DEA could argue that drugs were</p> <p>13 being shipped without us fully knowing" -- I</p> <p>14 think you mean our, whoever drafted this -- "our</p> <p>15 customers." Is that correct? Did I read that</p> <p>16 correctly?</p> <p>17 MS. MILLER: Object to form.</p> <p>18 A. It says "knowing out customer," as it</p> <p>19 reads.</p> <p>20 BY MR. ELSNER:</p> <p>21 Q. I'm sure it's a typo. That means our,</p> <p>22 right?</p> <p>23 A. Could mean our.</p> <p>24 Q. And that was another comment or risk</p>

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<p>1 that the DEA might conclude that CVS doesn't      2 know who its customer is if we adopt this middle      3 ground, correct?</p> <p>4 MS. MILLER: Object to form.</p> <p>5 A. That is what this document says under      6 this option. But again, I don't recall if we      7 ever -- this was ever our policy, nor is it our      8 policy today.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. The lowest risk option would be that      11 if you identify a suspicious order for a      12 controlled substance would be to stop shipments      13 of all controlled substances into that pharmacy      14 until you resolve the issue, correct?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. The option "Hold all Controlled      17 Substances on the Flagged Order from being sent      18 to the store, along with future orders" is what      19 it says.</p> <p>20 BY MR. ELSNER:</p> <p>21 Q. And that would be the lowest risk      22 option, correct?</p> <p>23 MS. MILLER: Object to form.</p> <p>24 A. This document says under Risk Level</p>	<p>1 MS. MILLER: Object to form.</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. To hold all the high-risk controlled      4 substances, known combination, and/or drugs in      5 the same family as the flagged order, correct?</p> <p>6 MS. MILLER: Object to form.</p> <p>7 A. No, I don't believe that's the exact      8 solution that we went with.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. You told me that today CVS blocks all      11 of the orders of controlled substances in the      12 same family group as the suspicious order along      13 with future orders in that family group,      14 correct?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. I'm just reading what's on the      17 document. It says "Hold All High Risk      18 Controlled Substances," which I don't know what      19 drugs that's referring to, "Known combinations,      20 and/or Drugs in Same Family." This seems to be      21 different than I recall our process being.</p> <p>22 BY MR. ELSNER:</p> <p>23 Q. If we turn back to item 7 in the      24 opportunities document. Are you with me, Number</p>
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<p>1 "Low."</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. Right. Lowest risk of diversion,      4 right? Because you're stopping all future, all      5 controlled substances, not just the family group      6 and not just the individual drug, right?</p> <p>7 MS. MILLER: Object to form.</p> <p>8 A. I can't say specific to what that risk      9 level is referring to.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. What does CVS do today with respect to      12 suspicious orders for controlled substances? Do      13 you block all future orders to the pharmacy from      14 the family group, all controlled substances, or      15 only that drug?</p> <p>16 MS. MILLER: Object to form.</p> <p>17 A. If an order is deemed suspicious we      18 report it to the DEA, and I believe we hold the      19 family group of the drug that was identified to      20 be suspicious.</p> <p>21 BY MR. ELSNER:</p> <p>22 Q. So CVS's approach is the medium      23 approach in terms of the risk levels identified      24 in this document, correct?</p>	<p>1 7?</p> <p>2 A. Number 7.</p> <p>3 Q. You wrote only the order in question      4 is stopped, not all controlled substances,      5 correct?</p> <p>6 A. Again, we're back on the document I      7 don't remember writing, but it says "Only order      8 in question is stopped, not all controlled      9 substances."</p> <p>10 Q. Okay. So not all controlled      11 substances to the pharmacy were stopped, and not      12 all drugs of the same family group were stopped,      13 right, only order in question is stopped, is      14 that what you wrote?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. I can't say that I wrote that, and I      17 don't recall if that was the process, was or was      18 not the process.</p> <p>19 BY MR. ELSNER:</p> <p>20 Q. But that's what's written here,      21 correct?</p> <p>22 A. The document here reads "Only order in      23 question is stopped, not all controlled      24 substances."</p>

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<p>1        MR. ELSNER: Okay. I'm going to mark      2 this next document as the next exhibit. This is      3 MR 12. It's also Schiavo 12. That doesn't      4 happen very often.</p> <p>5        (Whereupon, CVS-Schiavo-12 was marked      6 for identification.)</p> <p>7 BY MR. ELSNER:</p> <p>8        Q. This is another e-mail from you to      9 your boss, Tom Bourque, dated January 23, 2013.      10 The subject is "Stop Order_Order Resumption."      11 And then it states "Updated SOM SOP. Thank you,      12 Craig."</p> <p>13        Is that what you wrote to your boss,      14 Tom Bourque?</p> <p>15        A. Looking at this e-mail, it looks like      16 I wrote that.</p> <p>17        Q. And it looks like you received in the      18 e-mail prior to that an e-mail from Aaron      19 Burtner who made some recommendation --      20 recommended changes, and you've attached the      21 updated SOP for stopped order resumption,      22 correct? Is that what Aaron Burtner wrote to      23 you, among others?</p> <p>24        MS. MILLER: Object to form.</p>	<p>1        A. That's what it says under "Revision      2 Documentation."</p> <p>3        Q. Okay. So CVS never had a policy      4 before January 1, 2013, a written policy, with      5 respect to when an order should be stopped and      6 how that order should be resumed as part of its      7 standard operating procedures, correct?</p> <p>8        MS. MILLER: Object to form.</p> <p>9        A. I don't recall that to be the case.</p> <p>10 BY MR. ELSNER:</p> <p>11        Q. Well, that's what the document says,      12 right, that this is the first -- that the first      13 version of this standard operating procedure      14 with respect to stop orders was January 7, 2013,      15 right?</p> <p>16        MS. MILLER: Object to form.</p> <p>17        A. That's what it says under "Revision      18 Documentation." That's not to say this wasn't      19 covered in another policy.</p> <p>20 BY MR. ELSNER:</p> <p>21        Q. Was it?</p> <p>22        MS. MILLER: Object to the form.</p> <p>23        A. I don't recall.</p> <p>24 BY MR. ELSNER:</p>
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<p>1        A. I see Aaron's e-mail. I'm in the      2 "To," and then I see an e-mail to my boss with      3 an attachment.</p> <p>4 BY MR. ELSNER:</p> <p>5        Q. Okay. And if you look at the      6 attachment, this is actually the SOM process,      7 the Stop Order/Order Resumption process,      8 Revision Number 3 dated January 21, 2013,      9 correct?</p> <p>10        MS. MILLER: Object to form.</p> <p>11        A. That's the date on this document.</p> <p>12 BY MR. ELSNER:</p> <p>13        Q. Okay. And you know from manuals at      14 CVS that if you look on the last page you can      15 look at the history of the revision of the      16 document, correct?</p> <p>17        MS. MILLER: Object to form.</p> <p>18        A. I believe most of our policies at CVS      19 have a section like this at the end.</p> <p>20 BY MR. ELSNER:</p> <p>21        Q. Okay. And so it says that this      22 document was created for the first time on      23 January 7, 2013, right? That was the first      24 version of this?</p>	<p>1        Q. Isn't it true that the practice at the      2 time in 2012 if there was a suspicious order      3 that was presented, that CVS would only stop      4 that same drug from being shipped to the      5 pharmacy?</p> <p>6        MS. MILLER: Object to form.</p> <p>7        A. I don't recall what that process was.</p> <p>8 BY MR. ELSNER:</p> <p>9        Q. If you turn to Page 2 of 3 of the      10 document, sort of the first full paragraph      11 beginning with the sentence "Once." Do you see      12 the paragraph I'm speaking about?</p> <p>13        A. "Once an order of interest"?</p> <p>14        Q. Yes. It reads "Once an order of      15 interest is identified, the SOM Analyst will      16 complete all the necessary due diligence and the      17 SOM Manager will be notified to review the      18 order." And then it describes the due diligence      19 and what it will include, "contacting the      20 pharmacist, reviewing dispensing data, reviewing      21 ordering data, etcetera." Then it reads "If the      22 SOM Manager agrees that the order is an order of      23 interest, the Distribution Center will be      24 contacted, both by e-mail and telephone, by the</p>

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<p>1 SOM Manager to place a Hold on the drug family 2 in question on the order of interest." Is that 3 what it says? 4 A. It appears that's what it says. 5 Q. Okay. So CVS said part of this new 6 policy is going to hold the drug family in 7 question for the order of interest, the middle 8 ground risk level that we just discussed in your 9 risk analysis, correct? 10 MS. MILLER: Object to form. 11 A. So like I said, I see that this is the 12 creation of this document. I can't say whether 13 or not that is a new process or we implemented 14 it into this process and that was the process. 15 BY MR. ELSNER: 16 Q. Okay. But at least at this point in 17 time, January 21, 2013, the process would be 18 there's an order of interest, you hold all the 19 drug family in question on that order of 20 interest and don't ship that family of drugs, 21 the middle risk policy that you described in 22 your prior document, correct? 23 MS. MILLER: Object to form. 24 If you want to look at the other</p>	<p>1 the risk on something like that. 2 BY MR. ELSNER: 3 Q. Well, you're the director of business 4 compliance at CVS, right? 5 MS. MILLER: Object to form. 6 A. My current title is director, business 7 compliance officer. 8 BY MR. ELSNER: 9 Q. Okay. Would you agree that it would 10 be less risky if you just stopped all controlled 11 substances as opposed to only the controlled 12 substances in the family group identified? 13 MS. MILLER: Object to form. 14 A. I can't say that that would be more or 15 less risky. 16 BY MR. ELSNER: 17 Q. If you go to the bottom, if we're back 18 to the manual, in the -- there's sort of two big 19 bullets at the end of the document, beginning 20 with a sentence that starts "If the order of 21 interest is determined to be suspicious, the 22 following steps, but not limited to, may be 23 taken." 24 Do you see where I'm at?</p>
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<p>1 document he's referring to -- 2 A. Which was the other document, this? 3 BY MR. ELSNER: 4 Q. I'm talking about the risk analysis 5 that you did. We're talking about the middle 6 ground, right, hold the family in question? 7 A. These don't seem to be exactly the 8 same. 9 Q. What's the difference? 10 A. On this previous document that we 11 reviewed that I think you said I drafted, I 12 don't remember drafting it. This is talking 13 about known combinations, high-risk controlled 14 substances, which I don't know what that's 15 referring to. Doesn't seem to be exactly the 16 same. 17 Q. Okay. Would you agree that it's a 18 middle risk to hold all the drugs in the same 19 family group, whereas it would be a lower risk 20 to stop all controlled substances being shipped 21 to that pharmacy after an order of interest or 22 suspicion? 23 MS. MILLER: Object to form. 24 A. Not sure I'm the one who determines</p>	<p>1 MS. MILLER: Mike -- 2 MR. ELSNER: We're on Page 25368. 3 MS. MILLER: Got it. Thank you. 4 Where on the page? 5 MR. ELSNER: It's blown up for you 6 right next to you. 7 BY MR. ELSNER: 8 Q. "If the order of interest is 9 determined to be suspicious, the following 10 steps, but not limited to, may be taken." Do 11 you see where I'm at? 12 A. I see where you are in the document. 13 Q. And it says "The SOM Manager will 14 contact the Distribution Center and instruct 15 to," and it says "Cancel the items previously 16 held (family group); Complete a Mark Out on all 17 items to be cancelled; Provide the SOM Manager 18 with a copy of the Quality Scan for the tote 19 containing the suspicious order (family group); 20 and Discontinue shipping the drug family in 21 question to the store in question until further 22 instruction is received." 23 Is that what the policy was as of 24 January 21, 2013?</p>

<p style="text-align: right;">Page 198</p> <p>1 A. I don't recall that exact process.      2 Q. Is that what the document says?      3 A. How you read it is accurately how it      4 appears in the document.      5 Q. If we go back to your opportunities      6 chart -- actually just one last question on      7 this.      8 Who made the decision to draft this      9 stop order policy?      10 MS. MILLER: Object, basis of      11 attorney/client privilege.      12 To the extent you can answer without      13 revealing attorney/client communications, you      14 may answer.      15 A. I don't recall.      16 BY MR. ELSNER:      17 Q. Okay. If you go back to MR 12 that we      18 were looking at, which is the e-mail. That's      19 the right document.      20 MS. MILLER: The cover e-mail on the      21 same document?      22 BY MR. ELSNER:      23 Q. The cover e-mail. The stop order      24 policy. Do you see where we're at?</p>	<p style="text-align: right;">Page 200</p> <p>1 MS. MILLER: Object to form.      2 A. I see that the e-mail says "Nice job      3 putting this together."      4 BY MR. ELSNER:      5 Q. And that indicates that he put it      6 together?      7 MS. MILLER: Object to form.      8 A. It indicates I said nice job putting      9 it together.      10 BY MR. ELSNER:      11 Q. But it doesn't indicate he did?      12 MS. MILLER: Object to form.      13 A. I don't know if Aaron is the one who      14 created this document.      15 BY MR. ELSNER:      16 Q. Okay. If you look at the next      17 document -- e-mail above it, you send an e-mail      18 to Christopher Tulley and Dean Vanelli. "Stop      19 Order_Order Resumption" process. "Chris and      20 Dean, I made a couple suggestions to Aaron's      21 changes. I got his out of office as I forgot he      22 was leaving early today. Thank you."      23 So this is you forwarding the policy      24 and procedure to Chris Tulley and Dean Vanelli,</p>
<p style="text-align: right;">Page 199</p> <p>1 A. I see the document.      2 Q. If you go to the second page, it's      3 25366.      4 A. Okay.      5 Q. This is an e-mail from you to Aaron      6 Burtner. It says "Aaron, I made a couple of      7 suggestions and had a couple questions, anything      8 I added is in green. If you don't agree with      9 any of the suggestions, please feel free to      10 leave them out.      11 "Nice job putting this together, it      12 looks really good and covers the entire process      13 very clearly."      14 Is that what you wrote?      15 A. That e-mail is from me, and it is to      16 Aaron.      17 Q. So Aaron drafted the first policy and      18 procedure manual, is that right?      19 MS. MILLER: Object to form.      20 A. I don't recall if he was the one to      21 draft this policy.      22 BY MR. ELSNER:      23 Q. But you congratulated him for putting      24 this together, is that what you wrote?</p>	<p style="text-align: right;">Page 201</p> <p>1 is that right?      2 A. That's what it appears to be.      3 Q. Okay. Then Dean Vanelli in the next      4 e-mail, he makes some changes in blue font, and      5 he forwards those changes to the same document      6 to you and Aaron Burtner, among others, is that      7 right?      8 MS. MILLER: Object to form.      9 A. I see an e-mail from Dean to -- and I      10 am on the list of people who received it.      11 BY MR. ELSNER:      12 Q. So Dean made some edits, right?      13 MS. MILLER: Object to form.      14 A. I don't recall this e-mail trail, but      15 Dean's e-mail here indicates that he made      16 changes in blue.      17 BY MR. ELSNER:      18 Q. Okay. And then after that Aaron made      19 some -- made the recommended changes, and he's      20 attached the updated SOP, correct?      21 MS. MILLER: Object to form.      22 BY MR. ELSNER:      23 Q. Is that what he wrote?      24 A. Aaron has an e-mail stating "I made</p>

<p style="text-align: right;">Page 202</p> <p>1 recommended changes and have attached updated 2 SOP." And I am on that "To" list.</p> <p>3 Q. And you sent that to Tom Bourque, 4 right?</p> <p>5 A. It looks like I forwarded this to Tom 6 Bourque.</p> <p>7 Q. Okay. So you participated in the 8 drafting of the SOM SOP as it relates to stop 9 orders, right?</p> <p>10 MS. MILLER: Object to form.</p> <p>11 A. I don't recall reviewing or providing 12 feedback. Going off of this document, it looks 13 like I made some suggestions.</p> <p>14 BY MR. ELSNER:</p> <p>15 Q. If we go back to the opportunities 16 document, it's true at this time that when the 17 algorithm for the suspicious order monitoring 18 program flagged certain orders, that about 2 to 19 3 percent of the orders that were flagged would 20 be reviewed for an enhanced review by Aaron 21 Burtner, correct?</p> <p>22 MS. MILLER: Object to form.</p> <p>23 A. I don't remember that to be the case.</p> <p>24 BY MR. ELSNER:</p>	<p style="text-align: right;">Page 204</p> <p>1 A. I see where this document says 2 "100-plus orders flagged by system, looked." I 3 don't know what that means. I don't know where 4 I'm getting 100-plus orders from or the time 5 frame or -- I see where it says it in the 6 document. I'm not sure exactly what it means.</p> <p>7 BY MR. ELSNER:</p> <p>8 Q. Were you aware that Aaron Burtner was 9 looking at about 2 to 3 percent of 100 orders 10 flagged by the suspicious order monitoring 11 system to do a deeper dive?</p> <p>12 MS. MILLER: Object to form.</p> <p>13 A. The document says "100-plus orders 14 flagged by system, looked (past history, 15 Algorithm, MAX/MIN)." Then "2-3 were stopped." 16 I don't exactly know what order that's referring 17 to or, again, I don't recall drafting this 18 document or seeing this document.</p> <p>19 BY MR. ELSNER:</p> <p>20 Q. When the suspicious order monitoring 21 system flagged an order as potentially 22 suspicious, Aaron Burtner was reviewing those 23 orders at this time, correct?</p> <p>24 MS. MILLER: Object to form.</p>
<p style="text-align: right;">Page 203</p> <p>1 Q. Okay. If you look under number 8, it 2 says "100-plus Orders flagged by the system, 3 looked (past history, Algorithm, MAX/MIN)." "100-plus 4 orders flagged by the system, looked (past history, 5 Algorithm, MAX/MIN)." Do you see that line? Did I read it 6 right?</p> <p>7 A. I see where it says that.</p> <p>8 Q. Okay. And it says "2 to 3 were 9 stopped by Aaron for review." Did I read that correctly?</p> <p>10 A. I see where it says that.</p> <p>11 Q. And then there are three things 12 listed, "Deeper dive review; Dispensing versus 13 Ordering; Reach out to store."</p> <p>14 Do you see that?</p> <p>15 A. I see where it says that.</p> <p>16 Q. So do you understand that of the 100 17 orders flagged by the system, about 2 to 3 of 18 those 100 orders would be stopped by Aaron for 19 review and then he would do a deeper dive on 20 those 2 to 3 orders considering the dispensing 21 and ordering history, and he'd reach out to some 22 of the stores.</p> <p>23 Do you see that?</p> <p>24 MS. MILLER: Object to form.</p>	<p style="text-align: right;">Page 205</p> <p>1 A. At this time I don't know exactly who 2 was reviewing orders. I do know at one time 3 Aaron's responsibilities were reviewing orders.</p> <p>4 BY MR. ELSNER:</p> <p>5 Q. And it says in this document, "2 to 3 6 were stopped by Aaron." That's Aaron Burtner, 7 right?</p> <p>8 MS. MILLER: Object to form.</p> <p>9 A. Based on the cover page of this e-mail 10 and Aaron being on the e-mail, that is probably 11 Aaron.</p> <p>12 BY MR. ELSNER:</p> <p>13 Q. Okay. You understand that when the 14 SOM system flags suspicious orders that Aaron 15 Burtner didn't call every single pharmacy about 16 every single order that was identified or 17 flagged under the suspicious order monitoring 18 system, right?</p> <p>19 MS. MILLER: Object to form.</p> <p>20 A. So I don't know the full process and 21 detail that the SOM team followed. I wasn't 22 involved in the day-to-day. But the system 23 itself wasn't necessarily the algorithms, 24 weren't necessarily designed to flag suspicious</p>

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<p>1 orders. My understanding was they were to 2 identify orders of interest. 3 BY MR. ELSNER: 4 Q. What's the difference? 5 MS. MILLER: Object to form. 6 BY MR. ELSNER: 7 Q. Orders of interest for what? 8 MS. MILLER: Object to form. 9 A. My understanding is the system was 10 designed to look at orders that potentially were 11 just different than other orders and the team 12 looked at it. 13 BY MR. ELSNER: 14 Q. I mean, orders that were unusual in 15 size, right? 16 MS. MILLER: Object to form. 17 A. I don't really know exactly what 18 the -- how the system was designed. 19 BY MR. ELSNER: 20 Q. This is important. So did the system 21 look at orders for unusual size, frequency, and 22 pattern? 23 MS. MILLER: Object to form. 24 A. My understanding is the system was</p>	<p>1 had a system, and I didn't have any concerns 2 with the system at that time. 3 Q. Well, part of what you were hired to 4 do was to create and implement for the 5 distribution centers a suspicious order 6 monitoring system, that's what you wrote in your 7 review, right? 8 A. Again, I don't -- 9 MS. MILLER: Object to form. 10 A. I don't remember writing that review. 11 And if that's what it says, and I don't have it 12 in front of me, but I don't recall ever being 13 hired to do that. 14 BY MR. ELSNER: 15 Q. But in order to create a system, you 16 needed to understand the system that was in 17 place. So did you understand the system in 18 place to be identifying orders of interest based 19 on unusual size, frequency, or pattern? 20 MS. MILLER: Object to form. 21 BY MR. ELSNER: 22 Q. Yes or no, or I don't know. 23 A. I knew the SOM process at a high 24 level, and the way I understood it was that we</p>
<p>1 designed to meet the -- our requirements as a 2 wholesale distributor. 3 BY MR. ELSNER: 4 Q. And those requirements are to identify 5 orders of suspicious size, frequency, and 6 deviation, right? 7 MS. MILLER: Object to form. 8 A. As I understand the regulation, it's 9 size, frequency, pattern, but the requirement is 10 that we have a system that identified orders, 11 and I was comfortable we had a system that did 12 that. 13 BY MR. ELSNER: 14 Q. So these are the orders of interest 15 that are being identified. These are the orders 16 of unusual size, frequency, or pattern, correct? 17 That's what the SOM system was designed to 18 detect? 19 MS. MILLER: Object to form. 20 BY MR. ELSNER: 21 Q. Or was it not? Was it not designed 22 that way? 23 A. I wasn't part of the design of the 24 system at this point. My understanding was we</p>	<p>1 built a system to comply with DEA regulation. 2 Q. And that DEA regulation at the time 3 was to identify orders of suspicious size and 4 the like, right? 5 MS. MILLER: Object to form. 6 A. The way I understand the requirement 7 is we needed to have a system. 8 BY MR. ELSNER: 9 Q. You needed to just have a system? 10 A. We needed to have a system that a -- a 11 suspicious order monitoring system. 12 Q. That would do what? 13 A. Report suspicious orders. 14 Q. And a suspicious order by the DEA was 15 considered to be what? 16 MS. MILLER: Object to form. 17 A. I don't recall ever seeing guidance 18 from the DEA as to what was suspicious. 19 BY MR. ELSNER: 20 Q. Did the system in place in 2012 at 21 CVS -- was there a system in place to identify 22 orders that deviated substantially from a normal 23 pattern or size? Did you understand that system 24 to be able to do that?</p>

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1 MS. MILLER: Object to form. 2 A. In 2012, I didn't -- I don't believe I 3 recall the specifics or ever knew the specifics 4 of the suspicious order monitoring system. 5 BY MR. ELSNER: 6 Q. So you don't know whether it was in 7 compliance with DEA regulations or not, correct? 8 MS. MILLER: Object to form. 9 A. I don't recall ever hearing or having 10 a concern that we were not fulfilling our 11 requirements. 12 BY MR. ELSNER: 13 Q. And you didn't do any steps to 14 determine whether the system met the 15 requirements or not, correct? 16 MS. MILLER: Object to form. 17 A. In 2012 when I first started with the 18 company, I don't recall exactly what steps I 19 took. 20 BY MR. ELSNER: 21 Q. Well, do you know one way or the other 22 whether the system that existed before the new 23 system came into place tracked orders for -- 24 orders of unusual size, deviating from a normal	1 Q. Do you know why one order would be 2 subject to a deeper dive than another? 3 MS. MILLER: Object to form. 4 A. I wasn't part of that process. 5 BY MR. ELSNER: 6 Q. Who would we ask to determine whether 7 the SOM system complied with the DEA regulations 8 in 2012? Who at CVS? 9 MS. MILLER: Object to form. 10 A. I would think our lawyers are the ones 11 who make that determination. 12 BY MR. ELSNER: 13 Q. In order to determine what the system 14 was at CVS in November of 2012, if I asked you 15 to do that today, figure out for me what the 16 system was doing in 2012, who would you go talk 17 to? 18 MS. MILLER: Object to form. 19 Can we take a break soon for lunch. 20 MR. ELSNER: Not in the middle of a 21 question. 22 MS. MILLER: No, not right now, after 23 this. 24 MR. ELSNER: I've got a few more in
1 pattern or orders of unusual frequency? Did the 2 system track that? 3 A. I can't speak to the system that I 4 wasn't part of it being developed. I just 5 recall not having any concerns that we were not 6 meeting our requirements. 7 Q. But you didn't know one way or the 8 other, right? You didn't know whether the 9 system tracked for that information, correct? 10 MS. MILLER: Object to form. 11 A. I don't recall the specifics of the 12 algorithms or the system. 13 MS. MILLER: Object to form. 14 BY MR. ELSNER: 15 Q. The orders of interest that were 16 identified by the SOM system in place in 17 November of 2012, not every order of interest 18 resulted in a deeper dive review, including 19 reaching out to the particular pharmacy in 20 question, correct? 21 MS. MILLER: Object to form. 22 A. I can't say. I was not part of the 23 day-to-day process. 24 BY MR. ELSNER:	1 this area and then we can move on. 2 A. I don't recall who ran or owned the 3 SOM process at this time. 4 MS. MILLER: Craig, are you ready for 5 a break? 6 THE WITNESS: I could use a break 7 soon. 8 MS. MILLER: Can we take a break? 9 We've been going now -- we talked about 12:15. 10 We've been going at least an hour and 11 15 minutes. 12 MR. ELSNER: Okay. 13 THE VIDEOGRAPHER: We're going off the 14 record at 12:17 p.m. 15 (Whereupon, a luncheon recess was 16 taken.) 17 18 19 20 21 22 23 24

<p style="text-align: right;">Page 214</p> <p>1       AFTERNOON SESSION</p> <p>2</p> <p>3       THE VIDEOGRAPHER: We're back on the</p> <p>4 record at 12:57 p.m.</p> <p>5 BY MR. ELSNER:</p> <p>6       Q. Mr. Schiavo, if we look at item number</p> <p>7 9 in the opportunities list from your notes from</p> <p>8 the meeting in 2012, it says "Hold or cancel</p> <p>9 orders when flagged?" And then under A it says</p> <p>10 "Holding order until due diligence is completed</p> <p>11 may be the best option." Did I read that</p> <p>12 correctly?</p> <p>13       A. I see that is written on this</p> <p>14 document. And just as I said earlier, I don't</p> <p>15 remember writing this document.</p> <p>16       Q. Okay. Would you agree as a matter of</p> <p>17 policy that it would be best to hold an order</p> <p>18 until due diligence is completed before sending</p> <p>19 out that order?</p> <p>20       MS. MILLER: Object to form.</p> <p>21       A. Where it's written here, I don't know</p> <p>22 what hold is referring to, what part of the</p> <p>23 process.</p> <p>24 BY MR. ELSNER:</p>	<p style="text-align: right;">Page 216</p> <p>1       Q. If we go to the second page, item</p> <p>2 number 15, it reads "OV." I believe that stands</p> <p>3 for other vendors, is that right?</p> <p>4       A. I believe that stands for outside</p> <p>5 vendors.</p> <p>6       Q. Outside vendors, okay. Outside</p> <p>7 vendors and DC, that's the distribution center,</p> <p>8 is that right?</p> <p>9       A. I believe so.</p> <p>10       Q. Okay. So "outside vendors and</p> <p>11 distribution center orders don't get</p> <p>12 reviewed/monitored together. Both pieces of</p> <p>13 information need to run through the same</p> <p>14 system." Did I read that correctly?</p> <p>15       A. That is what this document says.</p> <p>16       Q. Is it your opinion that given the</p> <p>17 volume of controlled substances that CVS is</p> <p>18 dispensing that an automated system is an</p> <p>19 important component of a suspicious order</p> <p>20 monitoring program or system?</p> <p>21       MS. MILLER: Object to form.</p> <p>22       A. I don't believe that an SOM system</p> <p>23 needs to have an automatic element to it. I</p> <p>24 don't know exactly -- I'm not exactly sure what</p>
<p style="text-align: right;">Page 215</p> <p>1       Q. Well, would you agree generally that</p> <p>2 holding an order until you complete the due</p> <p>3 diligence would be a sound due diligence</p> <p>4 process?</p> <p>5       MS. MILLER: Object.</p> <p>6 BY MR. ELSNER:</p> <p>7       Q. Irrespective of the document.</p> <p>8       MS. MILLER: Object to form.</p> <p>9       A. I'm not sure exactly what's meant by</p> <p>10 hold.</p> <p>11 BY MR. ELSNER:</p> <p>12       Q. Under item 10 it reads "Process in DCs</p> <p>13 needs to be developed." Is that the</p> <p>14 distribution centers?</p> <p>15       A. I believe DC stands for distribution</p> <p>16 centers.</p> <p>17       Q. And that's what it says, that the</p> <p>18 process in the DCs needs to be developed, the</p> <p>19 distribution centers, is that correct? Is that</p> <p>20 what's written here?</p> <p>21       MS. MILLER: Object to form.</p> <p>22       A. I see that is written there. I don't</p> <p>23 know what process that's referring to.</p> <p>24 BY MR. ELSNER:</p>	<p style="text-align: right;">Page 217</p> <p>1 automatic element is.</p> <p>2 BY MR. ELSNER:</p> <p>3       Q. I might not have been clear.</p> <p>4       Would you agree that given just the</p> <p>5 volume of controlled substances that we're</p> <p>6 dealing with at CVS, that having an electronic</p> <p>7 system in place to monitor those orders would be</p> <p>8 important?</p> <p>9       MS. MILLER: Object to form.</p> <p>10       A. I can't say it would be important.</p> <p>11 BY MR. ELSNER:</p> <p>12       Q. Well, would it be effective to use a</p> <p>13 manual system?</p> <p>14       MS. MILLER: Object to form.</p> <p>15       A. It very well could be.</p> <p>16 BY MR. ELSNER:</p> <p>17       Q. Do you think it would be better to use</p> <p>18 a manual system at CVS to review all the</p> <p>19 controlled substances as opposed to an</p> <p>20 electronic one?</p> <p>21       MS. MILLER: Object to form.</p> <p>22       A. That's a hard question to answer.</p> <p>23 There's a lot of elements that go into a SOM</p> <p>24 process. It depends.</p>

<p style="text-align: right;">Page 218</p> <p>1 BY MR. ELSNER:</p> <p>2 Q. So you think you could have an 3 effective system at CVS for the dispensing of 4 controlled substances that's not electronically 5 based?</p> <p>6 MS. MILLER: Objection to form.</p> <p>7 A. Again, I don't think I'm -- when you 8 say dispensing of controlled substances at the 9 pharmacy, I don't know the processes well enough 10 to make that assumption.</p> <p>11 BY MR. ELSNER:</p> <p>12 Q. I'm just talking generally. I mean, 13 CVS dispenses millions and millions if not 14 billions of prescriptions in a given year, 15 right?</p> <p>16 MS. MILLER: Objection to form.</p> <p>17 A. I don't know the exact number that we 18 dispense.</p> <p>19 BY MR. ELSNER:</p> <p>20 Q. Well, would you agree it's in the 21 millions or higher?</p> <p>22 MS. MILLER: Objection to form.</p> <p>23 A. I haven't seen exact data on the 24 number of prescriptions dispensed.</p>	<p style="text-align: right;">Page 220</p> <p>1 Q. Anyone recommend we should, instead of 2 having electronic system, go back to paper?</p> <p>3 MS. MILLER: Object to form.</p> <p>4 A. I don't recall any specific 5 conversations around a manual system or 6 electronic system and how we should operate.</p> <p>7 BY MR. ELSNER:</p> <p>8 Q. Because that would be crazy, right?</p> <p>9 MS. MILLER: Objection to form.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. It would be crazy to try to use a 12 manual paper system for all these drugs orders, 13 wouldn't it?</p> <p>14 MS. MILLER: Objection to form.</p> <p>15 A. I can't say that.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. I'm going to -- if we go back to item 18 number 14, did CVS have a system in place in 19 November of 2012 to monitor for orders for 20 controlled substances made by pharmacies to 21 outside vendors?</p> <p>22 MS. MILLER: Objection to form.</p> <p>23 A. I don't recall what the process was in 24 2012 in terms of outside vendor orders.</p>
<p style="text-align: right;">Page 219</p> <p>1 BY MR. ELSNER:</p> <p>2 Q. So it could be less than a million?</p> <p>3 MS. MILLER: Objection to form.</p> <p>4 A. I haven't seen the exact numbers of 5 how much CVS dispenses in a given year.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. What's your best estimate?</p> <p>8 MS. MILLER: Objection to form.</p> <p>9 A. Again, I haven't seen numbers, so I 10 wouldn't even be able -- be comfortable guessing 11 the number.</p> <p>12 BY MR. ELSNER:</p> <p>13 Q. Well, you were developing a suspicious 14 order monitoring system for the distribution 15 centers, and you have no idea what the volume is 16 that CVS is distributing. You don't even know 17 if you need an electronic system, or could use a 18 manual system, right?</p> <p>19 MS. MILLER: Objection to the form.</p> <p>20 A. I wasn't the one developing the 21 system. I was on a team or part of a team that 22 was working to implement a new or enhanced 23 system.</p> <p>24 BY MR. ELSNER:</p>	<p style="text-align: right;">Page 221</p> <p>1 BY MR. ELSNER:</p> <p>2 Q. Did you understand -- you understand 3 that reviewing outside vendor orders for 4 controlled substances would be an -- important 5 to know so that you know how many controlled 6 substances a particular pharmacy was ordering, 7 correct?</p> <p>8 MS. MILLER: Objection to form.</p> <p>9 A. Outside vendor orders is a piece of 10 information that can be utilized, but that is 11 not the only piece of information that can be 12 utilized.</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. No, I understand that. But it would 15 be important to know, wouldn't it, from a due 16 diligence perspective? If the pharmacy was 17 ordering hydrocodone products from you, it would 18 be important to know whether that pharmacy was 19 also ordering hydrocodone products from other 20 outside vendors at the same time, right?</p> <p>21 MS. MILLER: Objection to form.</p> <p>22 A. You mean -- you keep saying 23 "important." I don't know what you mean by 24 important. But it's a piece of information that</p>

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<p>1 can be utilized.</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. Should it be?</p> <p>4 MS. MILLER: Object to form.</p> <p>5 A. I don't think it necessarily has to</p> <p>6 be.</p> <p>7 BY MR. ELSNER:</p> <p>8 Q. Do you have a system to monitor that</p> <p>9 today?</p> <p>10 MS. MILLER: Object to form.</p> <p>11 A. My understanding of the system today</p> <p>12 is that outside vendor orders are taken into</p> <p>13 consideration.</p> <p>14 BY MR. ELSNER:</p> <p>15 Q. Why?</p> <p>16 MS. MILLER: Object to form.</p> <p>17 A. Because that's the decision that was</p> <p>18 made.</p> <p>19 BY MR. ELSNER:</p> <p>20 Q. Why?</p> <p>21 MS. MILLER: Object to form, and to</p> <p>22 the extent -- objection on attorney/client</p> <p>23 privilege to the extent you -- an answer would</p> <p>24 involve disclosing communications with counsel.</p>	<p>1 as Schiavo 13. So this is another year-end</p> <p>2 review. This is the one that's finalized. It's</p> <p>3 dated 3/04/2014.</p> <p>4 Do you see that?</p> <p>5 A. I see where it says that.</p> <p>6 Q. Okay. And it lists Craig Schiavo, is</p> <p>7 that right?</p> <p>8 A. I see my name.</p> <p>9 Q. Okay. If you turn to Page 3 of 9,</p> <p>10 which is 120582.</p> <p>11 A. Okay.</p> <p>12 Q. Do you see under the -- there's some</p> <p>13 bullets on the right-hand side of the page.</p> <p>14 There's a bullet that begins "The Suspicious</p> <p>15 Order Monitoring SOP."</p> <p>16 Do you see that?</p> <p>17 A. I see that.</p> <p>18 Q. And it says that "Aaron Burtner and I</p> <p>19 worked together to draft and implement our</p> <p>20 current SOM policies and procedures, as well as</p> <p>21 have completed the draft of our enhanced SOM SOP</p> <p>22 for when the system goes live in February."</p> <p>23 That's what you did with Aaron</p> <p>24 Burtner, correct?</p>
<p>1 A. I don't recall who made that final</p> <p>2 decision.</p> <p>3 BY MR. ELSNER:</p> <p>4 Q. Do you understand why it was made?</p> <p>5 MS. MILLER: Same objection, and</p> <p>6 object to form.</p> <p>7 A. I don't recall who made the decision.</p> <p>8 BY MR. ELSNER:</p> <p>9 Q. Okay. I'm going to put before you</p> <p>10 Exhibit 13.</p> <p>11 (Whereupon, CVS-Schiavo-13 was marked</p> <p>12 for identification.)</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. Well, let me ask. That was a new</p> <p>15 system, though. It's now an enhanced system to</p> <p>16 monitor outside vendor orders for controlled</p> <p>17 substances. That wasn't in the prior system,</p> <p>18 right?</p> <p>19 MS. MILLER: Object to form.</p> <p>20 A. It is part of the new system. And I</p> <p>21 can't speak to whether or not that was part of</p> <p>22 the old system. It might have been.</p> <p>23 BY MR. ELSNER:</p> <p>24 Q. I'm going to mark this next document</p>	<p>1 MS. MILLER: Object to form.</p> <p>2 A. That's what this says. And I'm sure I</p> <p>3 worked with Aaron Burtner, but I don't think we</p> <p>4 were the only two who reviewed that policy or</p> <p>5 drafted that policy.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. But you said that you worked with</p> <p>8 Aaron Burtner to draft and implement that</p> <p>9 policy, correct?</p> <p>10 MS. MILLER: Object to form.</p> <p>11 A. This looks to be my year-end review</p> <p>12 for 2013. If I went into the details of</p> <p>13 everyone that I worked with and everything that</p> <p>14 I did, that would -- I might still be writing</p> <p>15 this document. So this doesn't include</p> <p>16 everything that I did and everyone that I worked</p> <p>17 with.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. But you worked on it and you wrote it</p> <p>20 with Aaron Burtner and maybe some other people,</p> <p>21 right?</p> <p>22 MS. MILLER: Object to form.</p> <p>23 A. I don't know exactly which policy this</p> <p>24 is referring to.</p>

<p style="text-align: right;">Page 226</p> <p>1 BY MR. ELSNER:</p> <p>2 Q. If you go further down, three bullets</p> <p>3 down, it reads "Grouping the Controlled</p> <p>4 Substance Drug Families to categorize the</p> <p>5 potential level of diversion for the SOM System.</p> <p>6 These groups will determine how each drug family</p> <p>7 is analyzed in the SOM algorithm."</p> <p>8 Did you do that?</p> <p>9 MS. MILLER: Object to the form.</p> <p>10 A. I don't believe -- I don't recall</p> <p>11 being part of the -- I don't recall being the</p> <p>12 person that did that.</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. That's what you wrote, right, that you</p> <p>15 grouped the controlled substance drug families</p> <p>16 to categorize the potential level of diversion</p> <p>17 for the SOM system? That's what you wrote in</p> <p>18 your review, correct?</p> <p>19 A. I see at the very beginning it says "I</p> <p>20 participated in," that last bullet says</p> <p>21 "Grouping the Controlled Substance Drug</p> <p>22 Families." That is not something I recall</p> <p>23 having significant input in.</p> <p>24 Q. Well, on the top right before the</p>	<p style="text-align: right;">Page 228</p> <p>1 time you were grouping together controlled</p> <p>2 substances in the SOM so that you could have</p> <p>3 stop orders in effect by drug family as opposed</p> <p>4 to individual drug, correct?</p> <p>5 MS. MILLER: Object to form.</p> <p>6 A. I don't recall, and I don't see where</p> <p>7 this would indicate that we were not doing it in</p> <p>8 the past.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. Were you doing it in the past? Why</p> <p>11 would you be grouping them now if you already</p> <p>12 had them grouped?</p> <p>13 MS. MILLER: Object to form.</p> <p>14 A. I don't recall, and I wasn't familiar</p> <p>15 with how the system looked at it in the past.</p> <p>16 It says here that one of the things that I</p> <p>17 participated in at some level was grouping of</p> <p>18 the controlled substances.</p> <p>19 BY MR. ELSNER:</p> <p>20 Q. By family group, right, as opposed to</p> <p>21 by individual drug?</p> <p>22 MS. MILLER: Object to form.</p> <p>23 A. It says "Grouping Controlled Substance</p> <p>24 Drug Families."</p>
<p style="text-align: right;">Page 227</p> <p>1 first bullet we read -- it says "Some of the</p> <p>2 main milestones that I participated in</p> <p>3 achieving, or was responsible for their</p> <p>4 completion were," and then it lists all these</p> <p>5 different bullets, and one of the bullets you</p> <p>6 list is one of the main milestones that you</p> <p>7 participated in achieving or were responsible</p> <p>8 for completing was to group the controlled</p> <p>9 substance drug families to categorize the</p> <p>10 potential level of diversion for the SOM system.</p> <p>11 Is that what you wrote?</p> <p>12 MS. MILLER: Object to form.</p> <p>13 A. I don't remember writing this and</p> <p>14 reading the way that it's written at the time.</p> <p>15 I'm saying that I participated in. I don't see</p> <p>16 anywhere where I indicate the level of my</p> <p>17 participation. The last bullet says grouping of</p> <p>18 controlled substances, and I don't see in there</p> <p>19 the level of my participation, and I don't</p> <p>20 recall my level of participation, but I don't</p> <p>21 believe that it was something that I provided</p> <p>22 significant input on.</p> <p>23 BY MR. ELSNER:</p> <p>24 Q. This indicates that at this point in</p>	<p style="text-align: right;">Page 229</p> <p>1 Q. By drug families.</p> <p>2 MR. ELSNER: This is Exhibit 14.</p> <p>3 (Whereupon, CVS-Schiavo-14 was marked</p> <p>4 for identification.)</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. This is your midyear review from 2013,</p> <p>7 last updated September 18, 2013. Do you see it</p> <p>8 lists your name, Craig Schiavo? Is that right?</p> <p>9 A. I do.</p> <p>10 Q. Can I ask you to turn to Page 3 of 7?</p> <p>11 A. Okay.</p> <p>12 Q. I ask you to -- this is another</p> <p>13 listing of bullets of things in your midyear</p> <p>14 review. And there's a bullet towards the</p> <p>15 bottom, sort of the last bullet. It begins</p> <p>16 "Quarantine Policy and Procedure."</p> <p>17 Do you see that?</p> <p>18 A. I see that.</p> <p>19 Q. Okay. And it says "Worked closely</p> <p>20 with Pharmacy Ops to create the policy on what</p> <p>21 to do if an Outside Vendor Order of Interest is</p> <p>22 deemed to be suspicious."</p> <p>23 Did I read that correctly?</p> <p>24 A. That is what this says.</p>

<p style="text-align: right;">Page 230</p> <p>1 Q. Okay. So were you involved in 2 creating a policy for suspicious orders related 3 to outside vendors of controlled substances? 4 MS. MILLER: Object to form. 5 A. I don't ever remember creating a 6 policy around -- I don't ever remember creating 7 a quarantine policy and procedure around outside 8 vendor orders, nor do I remember that being 9 something that we had ever implemented. 10 BY MR. ELSNER: 11 Q. Do you know whether there was a system 12 in place at CVS in November of 2012 to track 13 outside vendor orders of controlled substances? 14 MS. MILLER: Object to form. 15 A. I don't recall how outside vendor 16 orders were looked at in that time frame. 17 BY MR. ELSNER: 18 Q. If you go back to the prior year-end 19 review, the exhibit just before this one dated 20 March 4, 2014, and if you turn to Page 7 of 9. 21 The third bullet down on the right-hand side of 22 the page beginning with "Controlled Substance 23 SOP." 24 Do you see that?</p>	<p style="text-align: right;">Page 232</p> <p>1 remember -- 2 MS. MILLER: Objection. I'm going 3 to -- 4 BY MR. ELSNER: 5 Q. I'm not asking -- 6 MS. MILLER: Yeah, and I'm going to -- 7 BY MR. ELSNER: 8 Q. I'm not asking you what the feedback 9 from legal was. What I want to know is just 10 that you were working on this policy and it was 11 not finalized as of January of 2014. 12 MS. MILLER: Mike, I'd just like to 13 say on the record, I think for that sentence 14 related to legal that we would want to redact 15 that and claw that back. 16 MR. ELSNER: I don't think it -- 17 MS. MILLER: Yeah, I'm going to say -- 18 MR. ELSNER: -- discloses a privilege, 19 but -- 20 MS. MILLER: I'm going to say on the 21 record, you don't want to go into it, you just 22 said. I'm just making a record. 23 BY MR. ELSNER: 24 Q. Why don't I reread it, and I'll read</p>
<p style="text-align: right;">Page 231</p> <p>1 A. I do. 2 Q. It says "I am currently working to 3 create an SOP that covers all Controlled 4 Substance Activities in our Pharmacies. To 5 date, the initial draft of this SOP was provided 6 to Legal for feedback which was received back 7 requesting for us to expand the scope from just 8 dispensing to all controlled substance 9 activities. The second draft of this SOP will 10 be ready for review by the middle of January of 11 2014." Did I read that correctly? 12 A. Looks to be that's what it says. 13 Q. Okay. So you were creating a standard 14 operating procedure for controlled substance 15 activities at all CVS pharmacies in 2013 with 16 the hope that a second draft of the policy would 17 be ready by January, 2014, is that right? 18 MS. MILLER: Object to form. Object 19 on attorney/client privilege grounds. 20 You may answer to the extent you can 21 do so without revealing communications with 22 counsel. 23 A. So this policy, I don't remember what 24 the feedback from legal was, but I do</p>	<p style="text-align: right;">Page 233</p> <p>1 it without that in there. The year-end review 2 for -- dated March 4, 2014 stated that the 3 controlled -- you were working on the controlled 4 substance SOP, standard operating procedure. "I 5 am currently working to create an SOP that 6 covers all Controlled Substance Activities in 7 our Pharmacies." Is that true in 2013? 8 A. I don't remember this specific time 9 frame or specifically the policy this is 10 referring to. 11 Q. Well, was there a policy at CVS in 12 2013 before you started working on it to monitor 13 for controlled substance activities at 14 pharmacies? 15 MS. MILLER: Object to form. 16 A. I know that there were policies at CVS 17 that covered controlled substance related 18 activities. 19 BY MR. ELSNER: 20 Q. Was there a standard operating 21 procedure that related to controlled substance 22 activities in pharmacies at CVS? 23 MS. MILLER: Object to form. 24 A. I believe there were many policies</p>

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<p>1 that addressed controlled substances in them.</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. The system that you -- the description</p> <p>4 that you wrote as item 15 in your enhancements</p> <p>5 document lists OV and DC orders don't get</p> <p>6 reviewed and monitored together. So there</p> <p>7 needed to be a system that would review outside</p> <p>8 vendor orders along with the orders from the</p> <p>9 distribution center together in order to create</p> <p>10 an effective monitoring system, is that true?</p> <p>11 MS. MILLER: Object to form.</p> <p>12 A. I don't believe that is required to</p> <p>13 have an effective system, no.</p> <p>14 BY MR. ELSNER:</p> <p>15 Q. Would you agree that one element of a</p> <p>16 know your customer procedure is knowing whether</p> <p>17 your pharmacy customer is ordering controlled</p> <p>18 substances from multiple vendors?</p> <p>19 MS. MILLER: Object to form.</p> <p>20 A. I don't believe that that must be a</p> <p>21 part of a suspicious order monitoring system.</p> <p>22 BY MR. ELSNER:</p> <p>23 Q. Do you agree that understanding the</p> <p>24 amount of opioids purchased by a pharmacy is</p>	<p>1 an effective system.</p> <p>2 MR. ELSNER: Let's mark Exhibit 15,</p> <p>3 Schiavo 15.</p> <p>4 (Whereupon, CVS-Schiavo-15 was marked</p> <p>5 for identification.)</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. This is another e-mail from you to Tom</p> <p>8 Bourque dated January 22, 2013, and the subject</p> <p>9 is "Importance of Incorporating OV Orders."</p> <p>10 That's outside vendor orders. Did I read that</p> <p>11 correctly?</p> <p>12 A. That's what it says.</p> <p>13 Q. Okay. And it says "Tom, For the</p> <p>14 meeting with Pawlik today. Thanks, Craig."</p> <p>15 Who is Pawlik?</p> <p>16 A. That is Tom Pawlik who Tom Bourque</p> <p>17 reported up to. He was the VP of compliance.</p> <p>18 Q. And there's an attachment, and the</p> <p>19 attachment is the "Importance of Incorporating</p> <p>20 OV Orders," correct? Is that right?</p> <p>21 MS. MILLER: Object to form.</p> <p>22 A. The title is "Importance of</p> <p>23 Incorporating OV Orders Into the SOM."</p> <p>24 BY MR. ELSNER:</p>
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<p>1 only useful if you know if they are purchasing</p> <p>2 opioids from other vendors?</p> <p>3 MS. MILLER: Object to form.</p> <p>4 A. I don't believe that you need to know</p> <p>5 that in order to have an effective system.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. Would you agree with me it would be</p> <p>8 important to have that information to have an</p> <p>9 effective suspicious order monitoring system?</p> <p>10 MS. MILLER: Object to form.</p> <p>11 A. I'm not sure what you mean by</p> <p>12 important, but it's not necessary. I don't</p> <p>13 believe that it's necessary.</p> <p>14 BY MR. ELSNER:</p> <p>15 Q. So you could do without it?</p> <p>16 MS. MILLER: Object to form.</p> <p>17 A. What I'm saying is I don't necessarily</p> <p>18 believe that you have to have it.</p> <p>19 BY MR. ELSNER:</p> <p>20 Q. Right. You're saying you don't need</p> <p>21 it, it could be left out, right?</p> <p>22 MS. MILLER: Object to form.</p> <p>23 A. What I'm saying is I don't believe it</p> <p>24 is a required element to have in order to have</p>	<p>1 Q. "Into the SOM Algorithm," correct?</p> <p>2 A. That's what it says.</p> <p>3 Q. Okay. And written here is why it's</p> <p>4 needed, and the first bullet is the "DEA 'Know</p> <p>5 Your Customer' Requirements," right?</p> <p>6 MS. MILLER: Object to form.</p> <p>7 A. It says "DEA 'Know Your Customer'</p> <p>8 Requirements."</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. So one of the reasons why you need to</p> <p>11 incorporate outside vendor orders into the</p> <p>12 suspicious order monitoring algorithm is to</p> <p>13 comply with the DEA's know your customer</p> <p>14 requirements, right?</p> <p>15 MS. MILLER: Object to the form.</p> <p>16 A. I don't believe that is a required</p> <p>17 element in order to know your customer.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. But that's what you wrote in this</p> <p>20 memo, correct?</p> <p>21 MS. MILLER: Object to form.</p> <p>22 A. I don't remember writing this. I see</p> <p>23 what it says, why it is needed, and I see that</p> <p>24 it says "DEA 'Know Your Customer' Requirements."</p>

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<p>1 BY MR. ELSNER:</p> <p>2 Q. Okay. And under number two it reads</p> <p>3 "In order for dispensing data contained in the</p> <p>4 algorithm to be useful, we must account for all</p> <p>5 controlled substances ordered." Is that what it</p> <p>6 says?</p> <p>7 MS. MILLER: Object to form.</p> <p>8 A. That is what it says. But I know that</p> <p>9 you do not need to have outside vendor orders</p> <p>10 incorporated into a system in order to have an</p> <p>11 effective system, where it says we must account</p> <p>12 for all controlled substances ordered.</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. But you wrote that in these bullets,</p> <p>15 right?</p> <p>16 MS. MILLER: Object to form.</p> <p>17 A. I don't remember drafting this</p> <p>18 document. That is what the bullet says.</p> <p>19 BY MR. ELSNER:</p> <p>20 Q. Okay. Just so you know, we have the</p> <p>21 metadata on these documents, if your counsel</p> <p>22 didn't know, so it's not that we can sit around</p> <p>23 and craft up and create documents. We didn't</p> <p>24 make up documents, okay? These are the</p>	<p>1 radar." Is that what it reads?</p> <p>2 MS. MILLER: Object to form.</p> <p>3 A. That is what that first bullet says.</p> <p>4 BY MR. ELSNER:</p> <p>5 Q. Okay. And would you agree that that's</p> <p>6 a potential issue, that a store could order a</p> <p>7 little bit from the distribution center and a</p> <p>8 little bit from outside vendors and stay under</p> <p>9 the detection radar of the algorithm?</p> <p>10 MS. MILLER: Object to form.</p> <p>11 A. I don't know that to be true. I don't</p> <p>12 know what algorithm we're referring to. This is</p> <p>13 very early in the process. OV orders are</p> <p>14 something that we discussed. This is a document</p> <p>15 going over potential issues as I read this.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. And then under number three bullet,</p> <p>18 potential issues, "If we bring in the outside</p> <p>19 vendor data later in the process, we may ship a</p> <p>20 potentially reportable suspicious order from our</p> <p>21 distribution center." Did I read that</p> <p>22 correctly?</p> <p>23 MS. MILLER: Object to form.</p> <p>24 A. I see that written under "Potential</p>
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<p>1 documents produced from your files to us as part</p> <p>2 of CVS's obligation. Do you understand that?</p> <p>3 MS. MILLER: Object to form.</p> <p>4 BY MR. ELSNER:</p> <p>5 Q. Do you understand that's how this</p> <p>6 works?</p> <p>7 MS. MILLER: Object to form.</p> <p>8 A. I understand that this is a document</p> <p>9 provided to you by CVS.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. From your files.</p> <p>12 MS. MILLER: Object to form.</p> <p>13 A. I have no reason to believe that</p> <p>14 that's not true.</p> <p>15 BY MR. ELSNER:</p> <p>16 Q. Okay. Under the second item it lists</p> <p>17 "Potential Issues If Not Accounted For In</p> <p>18 Realtime." Did I read that correctly?</p> <p>19 A. "Potential Issues If Not Accounted For</p> <p>20 In Realtime."</p> <p>21 Q. And it reads that one issue -- one</p> <p>22 potential issue under bullet one is a "Store may</p> <p>23 order a little from both the outside vendor and</p> <p>24 the distribution center to stay under the</p>	<p>1 Issues If Not Accounted For In Realtime."</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. Okay. And then the last bullet in</p> <p>4 that section, the last main bullet, "Stores can</p> <p>5 place phone orders which we have no visibility</p> <p>6 to until a later time." Did I read that</p> <p>7 correctly?</p> <p>8 A. That is what it says there, although I</p> <p>9 don't ever remember that being a process at CVS.</p> <p>10 Q. Exactly.</p> <p>11 So under that it says currently we</p> <p>12 have a store which had a 68,000 hydrocodone pill</p> <p>13 loss and they were placing phone orders to</p> <p>14 outside vendors. Did I read that correctly?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. That is what that says.</p> <p>17 BY MR. ELSNER:</p> <p>18 Q. Were you aware that there was a CVS</p> <p>19 Pharmacy that had a 68,000 hydrocodone pill</p> <p>20 loss?</p> <p>21 A. I don't recall this loss.</p> <p>22 Q. Do you remember what pharmacy it was,</p> <p>23 or what state it was in?</p> <p>24 MS. MILLER: Object to form.</p>

<p style="text-align: right;">Page 242</p> <p>1 A. No, I don't recall.</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. When a pharmacy has a theft like that</p> <p>4 or a loss like that of 68,000 pills of</p> <p>5 hydrocodone, the system would stop sending those</p> <p>6 hydrocodone pills from the distribution center,</p> <p>7 right?</p> <p>8 MS. MILLER: Object to form.</p> <p>9 A. The SOM system under -- in 2013, I</p> <p>10 think, when this was drafted, I don't know</p> <p>11 exactly how it was designed or exactly what it</p> <p>12 looked at, but I do know that at CVS we had a</p> <p>13 policy to report controlled substance losses or</p> <p>14 thefts or armed robberies. And if this turned</p> <p>15 out to be a loss, which I don't recall, this</p> <p>16 could have turned out to not be a loss and</p> <p>17 incorrect, then I'm confident that we reported</p> <p>18 it to the DEA, and I'm confident that whatever</p> <p>19 remediations needed to be put in place were put</p> <p>20 in place.</p> <p>21 BY MR. ELSNER:</p> <p>22 Q. So it was a requirement in your</p> <p>23 understanding at this point in time that if</p> <p>24 there was a 68,000-pill loss for a controlled</p>	<p style="text-align: right;">Page 244</p> <p>1 BY MR. ELSNER:</p> <p>2 Q. Okay. And would this qualify as a</p> <p>3 significant loss?</p> <p>4 MS. MILLER: Object to form.</p> <p>5 A. I think 68,000 pills is a significant</p> <p>6 loss of hydrocodone if, in fact, this is</p> <p>7 accurate, which I don't know it to be.</p> <p>8 BY MR. ELSNER:</p> <p>9 Q. Okay. And would it concern you that</p> <p>10 if you had a CVS Pharmacy that had a 68,000</p> <p>11 hydrocodone pill loss, if that pharmacy was</p> <p>12 placing additional orders by phone with outside</p> <p>13 vendors other than through CVS's distribution</p> <p>14 center?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. Not knowing any other information on</p> <p>17 this loss, no.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. It would not concern you if a CVS</p> <p>20 Pharmacy had a 68,000 hydrocodone pill loss,</p> <p>21 that pharmacy couldn't order any more</p> <p>22 hydrocodone from the distribution center, and</p> <p>23 that pharmacy was placing orders to outside</p> <p>24 vendors to get hydrocodone shipped to them, that</p>
<p style="text-align: right;">Page 243</p> <p>1 substance that it was an obligation for CVS to</p> <p>2 report it to the DEA, right?</p> <p>3 MS. MILLER: Object to form.</p> <p>4 A. CVS reports substantial losses of</p> <p>5 controlled substances to the DEA.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. So you're confident it was done here</p> <p>8 because that's a requirement, but you don't know</p> <p>9 for sure?</p> <p>10 MS. MILLER: Object to form.</p> <p>11 A. I'm confident that whatever situation</p> <p>12 or store that is being referred to here, that I</p> <p>13 don't know what store, what the situation was,</p> <p>14 what kind of loss or even if there was a loss,</p> <p>15 I'm sure that CVS -- I'm very confident that CVS</p> <p>16 complied with whatever they needed to do to</p> <p>17 deal.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. I want to make sure. Is it CVS's</p> <p>20 policy at this time to report to the DEA a loss</p> <p>21 of controlled substances of this size?</p> <p>22 MS. MILLER: Object to form.</p> <p>23 A. I understand that CVS is required to</p> <p>24 report significant losses.</p>	<p style="text-align: right;">Page 245</p> <p>1 would not concern you?</p> <p>2 MS. MILLER: Object to form.</p> <p>3 A. I feel like you're assuming that this</p> <p>4 store could not place an order to our DC and</p> <p>5 could only place an order to the OV, and I don't</p> <p>6 know that to be the case, so I can't answer that</p> <p>7 question.</p> <p>8 BY MR. ELSNER:</p> <p>9 Q. Well, if that were true, would that</p> <p>10 concern you?</p> <p>11 MS. MILLER: Object to form.</p> <p>12 A. You're asking me to assume, and I</p> <p>13 don't have enough information to assume.</p> <p>14 BY MR. ELSNER:</p> <p>15 Q. It's a hypothetical. There's a 68,000</p> <p>16 hydrocodone pill loss, and that pharmacy</p> <p>17 couldn't get any more from the distribution</p> <p>18 center because the distribution center was</p> <p>19 investigating that, and then that same pharmacy</p> <p>20 ordered from an outside vendor more hydrocodone.</p> <p>21 Under that hypothesis or -- would that concern</p> <p>22 you?</p> <p>23 MS. MILLER: Object to form.</p> <p>24 A. Even in that hypothetical situation</p>

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<p>1 that you laid out, I still cannot make the      2 determination that I would be concerned.      3 BY MR. ELSNER:      4 Q. It says underneath that bullet that      5 the BOP requested phone records to identify the      6 orders placed in the store from the outside      7 vendor. What is BOP?      8 A. I believe that refers to the Board of      9 Pharmacy.      10 Q. Did you know that the Board of      11 Pharmacy had actually requested the phone      12 records to identify the orders placed by this      13 particular CVS store from outside vendors?      14 MS. MILLER: Object to form.      15 A. Again, I don't recall this loss, I      16 don't recall the store, I don't recall the      17 state. It does say that on the document.      18 BY MR. ELSNER:      19 Q. And that's the document you wrote,      20 correct? You wrote this document?      21 MS. MILLER: Object to form.      22 A. I don't recall writing this document.      23 I see that I did send the document to Tom      24 Bourque.</p>	<p>1 whether you agreed with the statement that the      2 SOM algorithm will be better equipped to      3 identify a potential suspicious order,      4 minimizing the risk of shipping potential      5 suspicious orders. Would you agree with that?      6 MS. MILLER: Object to form.      7 A. I cannot -- I can't say that's an      8 accurate statement because this early in the      9 process I didn't know all aspects that would be      10 part of the system that we were building, so I      11 don't know if that's an accurate statement      12 because there's a lot of other things that      13 potentially could have been put in the system      14 that would have done just as effective of a job.      15 BY MR. ELSNER:      16 Q. You wouldn't even agree that adding it      17 to the system would make the system more      18 effective?      19 MS. MILLER: Objection to form.      20 A. I agree that adding OV is a potential      21 element that someone could use when reviewing an      22 order.      23 BY MR. ELSNER:      24 Q. When did CVS, to your knowledge, have</p>
<p style="text-align: center;">Page 247</p> <p>1 BY MR. ELSNER:      2 Q. And then there's a listing here of      3 "Other Positives With Accounting for Outside      4 Vendor Orders." Do you see that as another      5 bold?      6 A. I see that.      7 Q. And listed there at the very end is      8 that the "SOM algorithm will have be better      9 equipped to identify a potential suspicious      10 order, minimizing the risk of shipping a      11 potential suspicious order."      12 MS. MILLER: Object to form.      13 A. I see where it says that.      14 BY MR. ELSNER:      15 Q. Do you agree with that?      16 MS. MILLER: Object to form.      17 A. I don't agree that including OV orders      18 is the only way that you could potentially      19 identify suspicious orders and minimizing risk      20 of shipping a potential suspicious order. I      21 don't believe that is the only way to do that,      22 no.      23 BY MR. ELSNER:      24 Q. That's not what I said. I asked you</p>	<p style="text-align: center;">Page 249</p> <p>1 a fully operational system to -- in place to      2 monitor orders from other vendors as required by      3 the DEA's know your customer policy?      4 MS. MILLER: Object to form.      5 A. So I don't know of having outside      6 vendor orders is a requirement of the DEA and      7 know your customer. I don't know that to be      8 true. Or I don't know that to be true. And I      9 don't know when CVS started utilizing outside      10 vendors.      11 BY MR. ELSNER:      12 Q. What's your best estimate?      13 A. I don't know. I don't recall when      14 they started using it.      15 Q. Did CVS have a system in place at this      16 point in time to monitor for drugs for      17 controlled substances dispensed from its      18 pharmacies?      19 MS. MILLER: Object to form.      20 A. I don't recall how CVS monitored at      21 this time controlled substances dispensed from      22 their pharmacies. I don't recall the process.      23 BY MR. ELSNER:      24 Q. Did you work on a process like that at</p>

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1 CVS? 2 MS. MILLER: Object to form. 3 A. I was involved in a project that 4 focused on controlled substance dispensing. 5 BY MR. ELSNER: 6 Q. When was that? 7 A. I don't recall when I started working 8 on that. 9 Q. 2013, '14? 10 A. I honestly don't recall the date. 11 Q. Was there a system in place when you 12 started working on that? 13 MS. MILLER: Object to form. 14 A. I don't recall how CVS monitored 15 dispensing at our retail pharmacies. 16 BY MR. ELSNER: 17 Q. I'm going to show you what we've 18 marked as Schiavo 16. 19 (Whereupon, CVS-Schiavo-16 was marked 20 for identification.) 21 BY MR. ELSNER: 22 Q. The bottom e-mail is an e-mail that 23 you sent to Tom Bourque dated January 15, 2014, 24 the subject is the "SOM Presentation 1-16-2014,"	1 January 16, 2014," and you and Tom are listed on 2 the first page of the PowerPoint, is that right? 3 A. I see both of our names there. 4 Q. Okay. And you worked on this 5 PowerPoint, correct? 6 A. Can I flip through it? 7 Q. Sure. I mean, you reference the fact 8 that you added things to it in the e-mail. 9 MS. MILLER: Do you have a better copy 10 of this? I know this is as produced -- 11 MR. ELSNER: I was going to ask you. 12 I'd like it in native. Do you have it? 13 MS. MILLER: Keep looking at it. But 14 it's over -- 15 BY MR. ELSNER: 16 Q. If it's helpful, we can pull up some 17 sections. I'm going to go through it with you. 18 MS. MILLER: Why don't you flip 19 through it. It's hard to read, so you can 20 always look at the screen. 21 A. The e-mail indicates I had input into 22 this document. I don't know exactly what my 23 input was. 24 BY MR. ELSNER:
1 correct? 2 A. I see that. 3 Q. Okay. And you write "Tom, As I was 4 driving home last night I thought of some 5 additional things I wanted to add. Attached are 6 the updates." 7 And then there's a response from Tom 8 to you a few hours later on January 15, 2014, 9 and the attachment is the SOM presentation 10 1-16-14. 11 Do you see that? 12 A. I see that. 13 Q. Then he says "Craig, This is good. I 14 added our department organization chart to the 15 front. I will speak to it, as well as roles and 16 responsibilities of our team, and how each 17 department works together...then I'll turn it 18 over to you to finish, and after the deck, go 19 through Archer SOM system highlights. 20 "Let's make sure we have a projector 21 and copies for all the attendees." Correct? 22 A. I see where it says that. 23 Q. Okay. And then attached is PowerPoint 24 presentation for "Suspicious Order Monitoring	1 Q. Okay. And the first, or slide 3 is 2 a -- there's a page there and it lists DEA's 3 expectations. 4 Do you see that? 5 A. I see where it says that. 6 Q. If you turn to Page 6 of the 7 PowerPoint under "Keys to an Effective SOM 8 Program." 9 Do you see that? 10 A. I see that. 11 Q. And the first thing listed there is to 12 "Know Your Customer. The DEA expects 13 registrants to 'Know Your Customer' and even to 14 Know Your Customers Customer...No order should 15 be released unless the team is comfortable that 16 it is for legitimate purposes." Correct? 17 MS. MILLER: Object to form. 18 A. I see where it says that. 19 BY MR. ELSNER: 20 Q. And then it goes on, there's a whole 21 section on documentation, is that right? 22 There's a number of bullets there. 23 Was it CVS's policy that any kind of 24 correspondence and due diligence would be
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<p>1 documented in their systems?</p> <p>2 MS. MILLER: Object to form.</p> <p>3 A. I know that in our current system</p> <p>4 documentation is something that we do and we</p> <p>5 keep. I don't know if there's any specifics</p> <p>6 around what documents need to be kept.</p> <p>7 BY MR. ELSNER:</p> <p>8 Q. If you look at Page 9 of the</p> <p>9 presentation and to "Key Takeaways," it reads</p> <p>10 "Documentation, Documentation, Documentation"</p> <p>11 with three or four exclamation marks all in caps</p> <p>12 and all bolded, correct?</p> <p>13 MS. MILLER: Object to form.</p> <p>14 A. I see where it says that, and it looks</p> <p>15 like it's bolded.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. Okay. And then beneath that it says</p> <p>18 "Documenting all activities that lead to the</p> <p>19 disposition of an order is key to a defensible</p> <p>20 SOM Program." Did I read that correctly?</p> <p>21 A. You read that correctly.</p> <p>22 Q. "If it is not documented, it was not</p> <p>23 done." Is that what you wrote?</p> <p>24 MS. MILLER: Object to form.</p>	<p>1 A. I don't know how important audit is to</p> <p>2 have an effective program. I don't think that</p> <p>3 makes a program effective.</p> <p>4 BY MR. ELSNER:</p> <p>5 Q. In order to determine whether a</p> <p>6 program is acting effectively, one way to do</p> <p>7 that would be audit the program, right?</p> <p>8 MS. MILLER: Object to form.</p> <p>9 A. I assume that is one way to do it. I</p> <p>10 don't think that's the only way to do it.</p> <p>11 BY MR. ELSNER:</p> <p>12 Q. Did you ever review any audit records</p> <p>13 of CVS's suspicious order monitoring system in</p> <p>14 2012 or 2013 to determine its effectiveness?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. I don't recall there being any audit</p> <p>17 documentation that I reviewed.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. Do you know whether any was done?</p> <p>20 MS. MILLER: Object to form and</p> <p>21 attorney/client privilege grounds.</p> <p>22 You may answer to the extent it</p> <p>23 doesn't reveal any attorney/client</p> <p>24 communications.</p>
<p style="text-align: center;">Page 255</p> <p>1 A. I don't know if I wrote that.</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. Is that in the presentation?</p> <p>4 A. That is what it says there, although I</p> <p>5 don't know how accurate that is, that if it was</p> <p>6 not documented it was not done.</p> <p>7 Q. But you would agree, though, it is</p> <p>8 important to document the due diligence work</p> <p>9 that was being undertaken as part of your</p> <p>10 suspicious order monitoring program, correct?</p> <p>11 MS. MILLER: Object to form.</p> <p>12 A. There is a documentation piece to our</p> <p>13 process.</p> <p>14 BY MR. ELSNER:</p> <p>15 Q. And why is it there?</p> <p>16 MS. MILLER: Object to form.</p> <p>17 A. Because the company made a decision</p> <p>18 that we were going to document parts of our due</p> <p>19 diligence process.</p> <p>20 BY MR. ELSNER:</p> <p>21 Q. Well, would you agree with me that</p> <p>22 audit is an important component of any kind of</p> <p>23 program or system that you have in place?</p> <p>24 MS. MILLER: Object to form.</p>	<p style="text-align: center;">Page 257</p> <p>1 A. In 2012, 2013, I don't recall.</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. Is it done today?</p> <p>4 MS. MILLER: Same objection, and</p> <p>5 object to form.</p> <p>6 A. I'm not familiar with the audit</p> <p>7 process and everything that is audited.</p> <p>8 BY MR. ELSNER:</p> <p>9 Q. Okay. It says on Page 8 of the</p> <p>10 PowerPoint under "DEA Reporting Requirements" at</p> <p>11 the very top, it says "CVS is obligated to</p> <p>12 report orders determined to be Suspicious that</p> <p>13 were placed to our Distribution Centers," and</p> <p>14 "placed to our distribution centers" is</p> <p>15 underlined and in bold, correct?</p> <p>16 A. I see that it is underlined, and it</p> <p>17 appears that at least part of it is in bold.</p> <p>18 Q. Okay. And then if you look down to</p> <p>19 the third bolded item, it reads that "Orders</p> <p>20 that are placed to an Outside Vendor that we</p> <p>21 identify as an order deviating from the normal</p> <p>22 size, frequency, and/or buying pattern and</p> <p>23 deemed to not be for legitimate purposes or are</p> <p>24 at the risk of being diverted are not required</p>

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<p>1 to be reported to the DEA."</p> <p>2 Did I read that correctly?</p> <p>3 MS. MILLER: Object to form.</p> <p>4 A. That's what it says, but I don't know</p> <p>5 how we would identify an order placed to an</p> <p>6 outside vendor deviating from normal size,</p> <p>7 frequency, but I don't believe that part of our</p> <p>8 process monitoring specific orders to the OV</p> <p>9 when they are placed.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. So I guess my first question is, does</p> <p>12 CVS have a system in place to monitor the orders</p> <p>13 that are being placed by its pharmacies, whether</p> <p>14 from the distribution center or to outside</p> <p>15 vendors for controlled substances?</p> <p>16 MS. MILLER: Object to form.</p> <p>17 A. I know that CVS monitors orders of</p> <p>18 controlled substances.</p> <p>19 BY MR. ELSNER:</p> <p>20 Q. From its pharmacies?</p> <p>21 A. From its retail pharmacies.</p> <p>22 Q. Okay. And it monitors them for</p> <p>23 suspicious size, frequency, is that right?</p> <p>24 MS. MILLER: Object to form.</p>	<p>1 BY MR. ELSNER:</p> <p>2 Q. Okay. And so when did that begin?</p> <p>3 MS. MILLER: Object to form.</p> <p>4 BY MR. ELSNER:</p> <p>5 Q. I mean, that's part of the new system</p> <p>6 that was created and put into place in 2014, is</p> <p>7 that right?</p> <p>8 MS. MILLER: Object to form.</p> <p>9 A. That is part of our new system, but</p> <p>10 that's not to say it was not part of our old</p> <p>11 system or our old due diligence process.</p> <p>12 BY MR. ELSNER:</p> <p>13 Q. You don't know one way or the other</p> <p>14 whether it was?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. I don't recall when CVS started</p> <p>17 utilizing outside vendor orders.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. Regardless, though, it was CVS's</p> <p>20 policy that when reviewing orders to outside</p> <p>21 vendors, if CVS identified an order that</p> <p>22 deviated from the normal size, frequency or</p> <p>23 buying pattern from the outside vendor, it was</p> <p>24 CVS's policy not to report that to the DEA, is</p>
<p>1 A. So current process today, CVS has a</p> <p>2 suspicious order monitoring system that was</p> <p>3 designed to monitor orders placed to our</p> <p>4 distribution centers from our pharmacies, and</p> <p>5 part of that monitoring is for orders of unusual</p> <p>6 size, frequency, and buying pattern.</p> <p>7 BY MR. ELSNER:</p> <p>8 Q. But that's a system for the</p> <p>9 distribution center to monitor the pharmacies'</p> <p>10 orders from the distribution center, correct?</p> <p>11 These are not -- it's not a process that's</p> <p>12 monitoring the pharmacies' orders from Cardinal</p> <p>13 or McKesson or other outside vendors, correct?</p> <p>14 MS. MILLER: Object to form.</p> <p>15 A. Well, we monitor orders of controlled</p> <p>16 substances placed by our pharmacies.</p> <p>17 BY MR. ELSNER:</p> <p>18 Q. From outside vendors?</p> <p>19 MS. MILLER: Object to form.</p> <p>20 A. We order -- we monitor orders from our</p> <p>21 pharmacies to outside vendors and to our</p> <p>22 distribution centers. As part of our</p> <p>23 distribution center process, outside vendor</p> <p>24 information is taken into consideration.</p>	<p>1 that right?</p> <p>2 MS. MILLER: Object to form.</p> <p>3 A. I honestly don't know of that to be in</p> <p>4 any policy that we have.</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. I'm sure it's not.</p> <p>7 It was CVS's practice, wasn't it, that</p> <p>8 if it discovered an order to an outside vendor</p> <p>9 for a controlled substance and you discovered</p> <p>10 that that order was not of its normal size,</p> <p>11 frequency, or buying pattern, and it's deemed</p> <p>12 not to be for a legitimate purpose and that</p> <p>13 there's a risk of that drug being diverted, then</p> <p>14 CVS would not report that to the DEA, right?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. I'm not aware of any regulation that</p> <p>17 would require us to report that to the DEA.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. And it was CVS's policy not to do it,</p> <p>20 right?</p> <p>21 MS. MILLER: Object to form.</p> <p>22 A. I don't know if we had a policy, and I</p> <p>23 don't recall a policy that says it is CVS's</p> <p>24 policy not to do it. I don't recall there being</p>

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<p>1 a policy for that.</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. It was CVS's practice not to report</p> <p>4 those orders to the DEA, correct?</p> <p>5 MS. MILLER: Object to form.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. And all that --</p> <p>8 MS. MILLER: Mischaracterizing the</p> <p>9 testimony, assuming he said that they determined</p> <p>10 suspicious --</p> <p>11 MR. ELSNER: You can object to form.</p> <p>12 MS. MILLER: -- that they determined</p> <p>13 that orders from outside vendors at some point</p> <p>14 were determined to be --</p> <p>15 MR. ELSNER: Your objection is noted.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. It was CVS's practice not to report</p> <p>18 those orders to the DEA, correct?</p> <p>19 MS. MILLER: Object to form.</p> <p>20 A. So to clarify, we -- determining</p> <p>21 whether an outside vendor order is suspicious is</p> <p>22 not a practice or, as I'm aware, requirement for</p> <p>23 CVS. I'm confident that CVS does meet all of</p> <p>24 their reporting requirements when it comes to</p>	<p>1 reporting.</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. That's not my question.</p> <p>4 My question is, did CVS report orders</p> <p>5 to the DEA -- was it CVS's practice to report</p> <p>6 orders to the DEA if CVS determines that those</p> <p>7 orders were not legitimate?</p> <p>8 MS. MILLER: Object.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. Would it report it to the DEA?</p> <p>11 MS. MILLER: Object to form. Asked</p> <p>12 and answered.</p> <p>13 A. Anything that would be above and</p> <p>14 beyond what we were required to do would not be</p> <p>15 something that I would decide. That probably</p> <p>16 would be our legal counsel to make those calls.</p> <p>17 BY MR. ELSNER:</p> <p>18 Q. This is what you wrote -- this is</p> <p>19 what's written in the PowerPoint presentation.</p> <p>20 MS. MILLER: I just want to instruct</p> <p>21 the witness not to testify in any way that would</p> <p>22 reveal any attorney/client communications.</p> <p>23 MR. ELSNER: You --</p> <p>24 MS. MILLER: And, Mike, I think</p>
<p>1 suspicious order monitoring.</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. Does CVS report orders placed through</p> <p>4 an outside vendor for a controlled substance</p> <p>5 that CVS discovers is not for a legitimate</p> <p>6 purpose, and does CVS report those orders to the</p> <p>7 DEA?</p> <p>8 MS. MILLER: Objection to form.</p> <p>9 A. You're referring to outside orders</p> <p>10 that are deemed suspicious, and that is not a</p> <p>11 practice that I'm familiar with. But I am</p> <p>12 confident that we meet all of our reporting</p> <p>13 requirements. I have no reason to believe that</p> <p>14 we do not.</p> <p>15 BY MR. ELSNER:</p> <p>16 Q. Does CVS report to the DEA orders from</p> <p>17 outside vendors that CVS deems are not orders</p> <p>18 for a legitimate purpose?</p> <p>19 MS. MILLER: Object to form.</p> <p>20 He hasn't testified any deeming of</p> <p>21 outside vendor orders occurred, and asked and</p> <p>22 answered.</p> <p>23 A. I can say confidently that CVS is</p> <p>24 complying with all of our responsibilities of</p>	<p>1 we've -- at this point, this is now, I think,</p> <p>2 the tenth time you've asked him this question.</p> <p>3 MR. ELSNER: I'm asking a different</p> <p>4 question.</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. Written in this PowerPoint</p> <p>7 presentation here, I just want to make sure I've</p> <p>8 got it correctly, is that orders that are placed</p> <p>9 to an outside vendor that we identify as an</p> <p>10 order deviating from the normal size, frequency,</p> <p>11 and/or buying pattern and deemed to not be for</p> <p>12 legitimate purposes or are at risk of being</p> <p>13 diverted are not required to be reported to the</p> <p>14 DEA at CVS. Is that what's written here?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. I see that is what's written there. I</p> <p>17 don't know if I'm the one who wrote that there,</p> <p>18 and I'm not aware of the requirement that</p> <p>19 requires CVS to report outside vendor orders.</p> <p>20 BY MR. ELSNER:</p> <p>21 Q. Okay. And then it says what we should</p> <p>22 do is that "Pharmacy Operations must be alerted</p> <p>23 that there is an order of interest that was</p> <p>24 placed by the store so that remediation plans</p>

<p style="text-align: right;">Page 266</p> <p>1 can be developed and implemented." Is that      2 what's written there?      3 MS. MILLER: Object to form.      4 A. I see that that is written there.      5 BY MR. ELSNER:      6 Q. And then it says "Until all the      7 remediations are implemented, the store will not      8 be allowed to order from our distribution      9 center." Is that what's written there?      10 MS. MILLER: Object to form.      11 A. I see that is written there. And as      12 you go through these bullets, this is not a      13 process that I'm familiar with currently at CVS.      14 BY MR. ELSNER:      15 Q. So CVS would alert pharmacy operations      16 of an order that's not for a legitimate purpose,      17 but would not report that order to the DEA if it      18 was through an outside vendor, right?      19 MS. MILLER: Object to form.      20 He hasn't testified that. He's      21 testified already that he doesn't even know that      22 this ever was in place.      23 BY MR. ELSNER:      24 Q. Am I right?</p>	<p style="text-align: right;">Page 268</p> <p>1 Q. Better to clean it up inside before      2 the DEA finds out, right?      3 MS. MILLER: Object to form.      4 BY MR. ELSNER:      5 Q. Right?      6 MS. MILLER: Object to form.      7 That's not at all what his testimony      8 is.      9 MR. ELSNER: Your objection is noted.      10 MS. MILLER: The implication of that      11 in that question is outrageous.      12 BY MR. ELSNER:      13 Q. Right?      14 MS. MILLER: Object to form.      15 A. I don't see anything here that speaks      16 to us trying to hide anything from the DEA. And      17 as I said, we meet our reporting -- I'm      18 confident we meet our reporting requirements.      19 And if we identify something within CVS, I am      20 also aware that we have policies, procedures,      21 processes to address that. But no, we would not      22 hide anything from the DEA.      23 BY MR. ELSNER:      24 Q. Well, you said it's better not to</p>
<p style="text-align: right;">Page 267</p> <p>1 MS. MILLER: Object to form.      2 A. This is not a policy I'm familiar with      3 so I can't speak to what would or would not have      4 been done or is done.      5 BY MR. ELSNER:      6 Q. Would you agree with me it would be      7 better to report it to the DEA so the DEA could      8 take action?      9 MS. MILLER: Object to form.      10 A. I'm confident we are complying with      11 our reporting requirements, and I know that at      12 CVS we have policies in place that deal with      13 situations if we think there's something such as      14 what you're reading on this slide.      15 BY MR. ELSNER:      16 Q. My question was, would you agree with      17 me it would be better to report it to the DEA?      18 MS. MILLER: Object to form.      19 A. No.      20 BY MR. ELSNER:      21 Q. You don't think it would be better?      22 MS. MILLER: Object to form.      23 A. No.      24 BY MR. ELSNER:</p>	<p style="text-align: right;">Page 269</p> <p>1 report it to the DEA, and this says what you're      2 going to do is you're going to inform pharmacy      3 ops so that they can create a remediation plan,      4 and internally at CVS we're not going to      5 distribute any more controlled substances to      6 that pharmacy until it's fixed, but it's not the      7 policy to inform the DEA, better to fix it      8 in-house before the DEA finds out, right?      9 MS. MILLER: Object to form. Asked      10 and answered.      11 I don't think we should be continuing      12 to go down this road. He has not even testified      13 that these -- that orders of outside vendors      14 were ever deemed to be suspicious. It's a      15 faulty premise and we've been spending too much      16 time on it. I think we should move on.      17 BY MR. ELSNER:      18 Q. Right? Yes or no?      19 MS. MILLER: Object to form. Object      20 to form.      21 BY MR. ELSNER:      22 Q. I'm entitled to an answer. Yes or no?      23 A. So there was a lot in that statement      24 or question, but CVS complies with our reporting</p>

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<p>1 requirements, and certainly nothing that I      2 worked on or anyone that I know who works at CVS      3 has any intention of hiding anything from the      4 DEA.</p> <p>5 Q. But it was CVS's policy or practice      6 not to report it to the DEA, right?</p> <p>7 MS. MILLER: Object to form.</p> <p>8 A. Again, I don't believe we have a      9 policy on this. And what we've been going over      10 I don't believe to be something that is relevant      11 or applicable to our current policies,      12 practices.</p> <p>13 MR. ELSNER: Why don't we take a quick      14 break. I'll organize my documents.</p> <p>15 THE VIDEOGRAPHER: We're going off the      16 record at 2:00 o'clock p.m.</p> <p>17 (Whereupon, a recess was taken.)</p> <p>18 THE VIDEOGRAPHER: We're back on the      19 record at 2:29 p.m.</p> <p>20 BY MR. ELSNER:</p> <p>21 Q. Mr. Schiavo, we took about a 25-minute      22 break from the deposition. Did you discuss the      23 content of the deposition with your counsel      24 during the break?</p>	<p>1 MR. ELSNER: You understand that he's      2 under oath? This is like trial. Any      3 conversations you have with him during a break      4 are admissible.</p> <p>5 MS. MILLER: That's not -- that's      6 absolutely not true.</p> <p>7 MR. ELSNER: That is absolutely not      8 true.</p> <p>9 MS. MILLER: That is not true. We are      10 able to confer -- I'm able to confer with the      11 witness.</p> <p>12 MR. ELSNER: In the middle of his      13 testimony concerning the content of his      14 testimony?</p> <p>15 MS. MILLER: Yes.</p> <p>16 MR. ELSNER: Is that what was done?</p> <p>17 MS. MILLER: Wait, wait.</p> <p>18 MR. MONTMINY: Not in our court you're      19 not.</p> <p>20 MS. MILLER: No, wait, wait. Let      21 me --</p> <p>22 MR. MONTMINY: There are protocols in      23 this case.</p> <p>24 MS. MILLER: The protocol --</p>
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<p>1 MS. MILLER: Object to form. Instruct      2 him not to answer. He has attorney/client      3 privilege --</p> <p>4 MR. ELSNER: He is under oath and      5 testifying like he's at trial.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. Did you have a conversation with your      8 counsel, yes or no, about the content of the      9 deposition?</p> <p>10 MS. MILLER: Objection. Instruct him      11 not to answer.</p> <p>12 BY MR. ELSNER:</p> <p>13 Q. Will you answer yes or no? It can't      14 reveal a privilege if you -- whether you had a      15 conversation or not.</p> <p>16 MS. MILLER: You're asking him whether      17 he and I -- what we talked about.</p> <p>18 MR. ELSNER: I asked him, did you      19 discuss with counsel, yes or no, the content of      20 your deposition.</p> <p>21 MS. MILLER: I'm going to object and      22 instruct him not to answer.</p> <p>23 MR. ELSNER: Even to yes or no?</p> <p>24 MS. MILLER: Yes.</p>	<p>1 MR. ELSNER: I'd like to preserve the      2 record and have an answer of this, yes or no,      3 and a description of what was discussed.</p> <p>4 MS. MILLER: No, I object.</p> <p>5 MR. ELSNER: He can't even remember      6 tomorrow what color tie he wore today, so      7 there's no way that if this goes on that I'm not      8 going to get an answer to this question.</p> <p>9 MS. MILLER: Well, I object on      10 attorney/client privilege grounds, and he's not      11 answering these questions.</p> <p>12 MR. ELSNER: I think that's totally      13 inappropriate.</p> <p>14 BY MR. ELSNER:</p> <p>15 Q. Sir, if I can have you turn back to      16 the PowerPoint you were looking at that you      17 presented with Tom Bourque. Who was this      18 presentation made to?</p> <p>19 A. I don't recall everyone we covered      20 this with.</p> <p>21 But I did want to clarify on what we      22 had discussed before we left, that this      23 paragraph talking about outside vendor orders, I      24 was trying to distinguish between outside vendor</p>

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<p>1 order information that is taken into account in 2 reviewing a distribution center order, not 3 suggesting that outside vendor orders are run 4 through our SOM system, which they are not 5 today. They haven't been, to the best of my 6 recollection. So anything about reporting 7 outside vendor suspicious orders would be a 8 hypothetical situation and not something that I 9 recall ever happening. So that would have been 10 a hypothetical, anything that I answered under 11 those circumstances.</p> <p>12 Q. Is this a conversation you had with 13 counsel during the break?</p> <p>14 MS. MILLER: Objection. Instruct you 15 not to answer. Objection on attorney/client 16 privilege grounds.</p> <p>17 BY MR. ELSNER:</p> <p>18 Q. Are you going to follow your counsel's 19 advice?</p> <p>20 MS. MILLER: Objection. He's been 21 instructed by his counsel not to answer. He's 22 not going to answer the question.</p> <p>23 BY MR. ELSNER:</p> <p>24 Q. So if I understand it correctly, CVS</p>	<p>1 A. So I know it indicates I'd given 2 feedback or input on this presentation. I don't 3 remember that I put it together, and I don't 4 recall everyone that we presented this to.</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. Well, the cover of the e-mail to the 7 presentation says "Craig, This is good," this is 8 the -- talking about the SOM presentation that 9 you sent him your revisions to, right? Tom, 10 your boss, writes "Craig, This is good. I added 11 our department organizational chart to the 12 front. I will speak to it, as well as the roles 13 and responsibilities of our team, and how each 14 department works together...then I'll turn it 15 over to you" -- you, Craig Schiavo -- "to you to 16 finish, and after the deck, then I'll go through 17 the Archer SOM system highlights."</p> <p>18 So, in fact, it was the intention that 19 you were going to participate in this 20 presentation and give the presentation with Tom 21 Bourque, correct?</p> <p>22 MS. MILLER: Object to form.</p> <p>23 A. Reading this e-mail, it looks like I 24 was going to take part.</p>
<p>1 does not have a system in place to monitor 2 purchases of controlled substance by its 3 pharmacies through a suspicious order monitoring 4 system, is that your testimony?</p> <p>5 MS. MILLER: Objection to form.</p> <p>6 A. CVS does not run outside vendor orders 7 through our suspicious order monitoring system.</p> <p>8 BY MR. ELSNER:</p> <p>9 Q. Okay. And that would include for 10 controlled substances and Schedule II drugs like 11 OxyContin, correct?</p> <p>12 MS. MILLER: Objection to form.</p> <p>13 A. Currently today, and I don't recall a 14 time where we ever ran any outside vendor orders 15 through our suspicious order monitoring system.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. In Page 4 of the PowerPoint 18 presentation -- well, strike that. Before we -- 19 I think I had a question, and I don't know that 20 I got an answer to it. I think you diverted to 21 something else.</p> <p>22 But who did you prepare this 23 presentation for, and who was it given to?</p> <p>24 MS. MILLER: Object to form.</p>	<p>1 BY MR. ELSNER: 2 Q. Okay. And in the first page of the 3 PowerPoint presentation, both you and Tom are 4 listed under the title, correct?</p> <p>5 A. Both of our names are there.</p> <p>6 Q. Okay. If you go to Page 4 of the 7 PowerPoint presentation, it says "Penalties 8 Levied by the DEA."</p> <p>9 Do you see that?</p> <p>10 A. I do see that.</p> <p>11 Q. Did you collect information about the 12 DEA's investigations and penalties leveled by 13 the DEA against other distributors and 14 pharmacies?</p> <p>15 A. At a high level it looks like there 16 are situations documented here.</p> <p>17 Q. Okay. And you included in the 18 presentation a penalty levied by the DEA on 19 Cardinal Health in February of 2012, is that 20 right? Go to the first bullet under Cardinal 21 Health.</p> <p>22 A. I see that.</p> <p>23 Q. Okay. And it reads, and if it's 24 easier for you to read on the screen next to you</p>

<p style="text-align: right;">Page 278</p> <p>1 where it's blown up, "DEA Registration is      2 suspended for two years in Florida distribution      3 center because of sales of oxycodone to      4 pharmacies in Florida," and then in parenthesis      5 it says "2 CVS's."</p> <p>6       Do you see that?</p> <p>7       A. I do see that.</p> <p>8       Q. Okay. You were aware, were you not,      9 that the DEA investigated Cardinal Health and      10 suspended their license with respect to their      11 distribution of controlled substances to two CVS      12 stores in Florida?</p> <p>13       MR. DAWSON: Object to the form.</p> <p>14       A. I see what it says here. I don't      15 recall exactly the circumstances or all the      16 circumstances that led to Cardinal Health having      17 their registration suspended, or am I even      18 positive that it was actually suspended.</p> <p>19       BY MR. ELSNER:</p> <p>20       Q. Okay. Exhibit 17.</p> <p>21       (Whereupon, CVS-Schiavo-17 was marked      22 for identification.)</p> <p>23       BY MR. ELSNER:</p> <p>24       Q. This is the Government's Prehearing</p>	<p style="text-align: right;">Page 280</p> <p>1       A. This is my first time seeing this      2 document, and these numbers are not something I      3 am or was aware of.</p> <p>4       BY MR. ELSNER:</p> <p>5       Q. In the second to last paragraph, it      6 reads "According to the 2010 US Census Bureau      7 Facts Sheet, Sanford, Florida has a population      8 of 53,570 people." Did I read that correctly?</p> <p>9       A. That's what it says.</p> <p>10       Q. Okay. And then it says "Based on      11 these numbers, Respondent's distribution of      12 oxycodone could supply every resident of      13 Sanford, Florida with approximately 58.6 dosage      14 units of oxycodone."</p> <p>15       Did I read that correctly?</p> <p>16       A. That is what this says.</p> <p>17       Q. Would you agree with me that the size      18 of the community in which a pharmacy is based      19 should be one of the factors that one should      20 look at in terms of due diligence for suspicious      21 order monitoring or due diligence of reviews of      22 sales for controlled substances to determine      23 whether the amount of opioids or controlled      24 substances being shipped to that pharmacy is</p>
<p style="text-align: right;">Page 279</p> <p>1 Statement in the matter of Cardinal Health dated      2 February 22, 2012. And I'm going to ask you to      3 turn to Page 17 of the document. Let me ask you      4 to look at the second to last paragraph on the      5 page. It says "CVS 219 and 5195, two of      6 Respondent's" -- and I'll let you know that      7 means Cardinal's -- "top four retail pharmacy      8 customers, are located in Sanford, Florida."      9       And then it reads -- if you look in      10 the last paragraph on the page, it starts "In      11 2011, Respondent" -- that's Cardinal --      12 "collectively distributed over 3 million dosage      13 units of oxycodone to six Sanford, Florida      14 pharmacies. Of this volume, Respondent shipped      15 over 3 million dosage units (96 percent) to the      16 two CVS stores named in the ISO. This volume      17 dwarfs the oxycodone volume purchased by other      18 chain pharmacies in Sanford." And then it goes      19 on to explain the dosage.</p> <p>20       Were you aware that two CVS Pharmacy      21 stores had received over 3 million dosage units      22 of oxycodone in 2011?</p> <p>23       MR. DAWSON: Objection.</p> <p>24       MS. MILLER: Object to form.</p>	<p style="text-align: right;">Page 281</p> <p>1 proportional with the community in which it      2 lives?</p> <p>3       BY MR. ELSNER:</p> <p>4       Q. I didn't say you had to. I said,      5 would you agree with me that that's a factor?</p> <p>6       MS. MILLER: Object to form.</p> <p>7       A. I don't believe that is a factor that      8 you have to include.</p> <p>9       BY MR. ELSNER:</p> <p>10       Q. Do you believe it's a factor that you      11 should include?</p> <p>12       MS. MILLER: Object to form.</p> <p>13       A. I don't think it's something that is      14 necessary to be included.</p> <p>15       BY MR. ELSNER:</p> <p>16       Q. Do you think it's important to      17 include?</p> <p>18       MS. MILLER: Object to form.</p> <p>19       BY MR. ELSNER:</p> <p>20       Q. How important or unimportant is it?</p> <p>21       MS. MILLER: Object to form.</p>

<p style="text-align: right;">Page 282</p> <p>1 BY MR. ELSNER:</p> <p>2 Q. Scale of 1 to 10, 1 being totally not 3 important at all, 10 essential.</p> <p>4 MS. MILLER: Object to form.</p> <p>5 A. I don't know if I can put a number on 6 how important that is to include. There's lots 7 of factors that are included in reviewing or 8 conducting due diligence.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. I'm sure there are, but do your best.</p> <p>11 MS. MILLER: Object to form.</p> <p>12 A. We're not talking about any specific 13 order situation that -- I don't know. I don't 14 know if it would be important or not. I can't 15 say.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. Okay. You can't say whether the size 18 of the community in which the pharmacy sits 19 would be an important factor in looking at the 20 volume of oxycodone products or other opioids 21 shipped into the pharmacy in that community? 22 You wouldn't think -- you can't say whether 23 that's important or not?</p> <p>24 MS. MILLER: Object to form.</p>	<p style="text-align: right;">Page 284</p> <p>1 MR. DAWSON: Objection.</p> <p>2 A. This is before I was even in the -- 3 with the company. I --</p> <p>4 BY MR. ELSNER:</p> <p>5 Q. I said after this. At any point after 6 this, after the DEA suspended Cardinal's 7 license, did CVS create a system like that, 8 after February, 2012?</p> <p>9 MR. DAWSON: Objection.</p> <p>10 MS. MILLER: Object to form.</p> <p>11 A. I don't recall if that is part. I 12 don't recall if that's an element of the system.</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. Okay. Don't recall if it's an element 15 of the system, and you can't give it a score 16 from 1 to 10 in terms of importance, is that 17 right?</p> <p>18 MS. MILLER: Object to form.</p> <p>19 A. I wouldn't be able to assign it a 20 score if it's important or not important.</p> <p>21 BY MR. ELSNER:</p> <p>22 Q. Okay. The next thing that the 23 government discusses in the brief on Page 18, if 24 you flip the page, about in the middle of the</p>
<p style="text-align: right;">Page 283</p> <p>1 A. I can't say that there aren't other 2 elements that would be just as important or not 3 important or couldn't get you to the same 4 information that you needed.</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. Did CVS track that information?</p> <p>7 MS. MILLER: Object to form.</p> <p>8 A. This is before I even started at CVS. 9 I have no idea.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. In 2012 when you joined CVS, was it 12 looking at this information?</p> <p>13 MS. MILLER: Object to form.</p> <p>14 A. I'm not sure at that time all of the 15 elements that were looked at as part of the SOM.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. After Cardinal's license was suspended 18 by the DEA and this investigation was going on, 19 after that did CVS have a policy to look at the 20 size of the community in which its pharmacies 21 were sitting to determine whether the orders to 22 that pharmacy were proportional to the community 23 in which that pharmacy was situated?</p> <p>24 MS. MILLER: Object to form.</p>	<p style="text-align: right;">Page 285</p> <p>1 page there's a line there that begins "Publix 2 Pharmacy 641." Do you see that? Do you see 3 that paragraph?</p> <p>4 A. I see the paragraph starting with 5 Publix Pharmacy.</p> <p>6 Q. Okay. And then the next sentence 7 reads "In 2011, CVS 5195 purchased 1.2 million 8 dosage units of oxycodone, while Publix Pharmacy 9 0641 purchased only 25,700 units of oxycodone. 10 The two stores are located within two miles of 11 one another."</p> <p>12 Do you think it's important to have a 13 system that tracks sales of controlled 14 substances like opioids in comparison with other 15 pharmacies in the same geographic area?</p> <p>16 MS. MILLER: Object to form.</p> <p>17 A. I don't think that information is 18 necessary to have an effective system.</p> <p>19 BY MR. ELSNER:</p> <p>20 Q. In terms of scale 1 to 10, 1 being 21 totally useless, 10 being essential, where would 22 you place the relationship between a pharmacy's 23 sales of controlled substances compared to other 24 pharmacies in the same geographic area?</p>

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<p>1 MS. MILLER: Object to form.</p> <p>2 A. Based on the limited information I 3 have to answer that question, I couldn't even 4 think about how to assign that a score.</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. So you can't assign a score for the 7 importance of geographic area. Can you tell us 8 whether CVS had a policy in place to look at the 9 geographic area in which a store sat and compare 10 the sales of controlled substances to other like 11 pharmacies in the same geographic area?</p> <p>12 MS. MILLER: Object to form.</p> <p>13 A. During this time frame I did not work 14 for CVS, and I can't answer that, I don't know.</p> <p>15 BY MR. ELSNER:</p> <p>16 Q. I'm talking about at any time, today, 17 yesterday, all the way back to 2012.</p> <p>18 A. I'm not familiar with the process of 19 how CVS monitors, sells, and incorporates other 20 factors of where those sales are taking place. 21 I'm not familiar with those.</p> <p>22 Q. What about the distribution of 23 controlled substances, would it be important as 24 part of a due diligence system to look at where</p>	<p>1 A. I personally never reviewed suspicious 2 orders or orders of interest or any orders.</p> <p>3 BY MR. ELSNER:</p> <p>4 Q. Well, you managed people who did that, 5 right? In 2014 you managed the people who did 6 that process, right?</p> <p>7 A. I never had anyone on the suspicious 8 order monitoring team in 2014 that reported to 9 me.</p> <p>10 MR. ELSNER: We'll mark this as the 11 next exhibit.</p> <p>12 (Whereupon, CVS-Schiavo-18 was marked 13 for identification.)</p> <p>14 BY MR. ELSNER:</p> <p>15 Q. This is Schiavo Exhibit 18. If you -- 16 this is another one of your year-end reviews. 17 This one is dated the first of -- I'm sorry, 18 January 22, 2015. This is your year-end review 19 for 2014.</p> <p>20 I'm going to ask you to take a look at 21 Page 2. Top of the page it reads "I continue to 22 be an active contributor to the SOM team. My 23 main responsibilities as it relates to this team 24 are as follows."</p>
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<p>1 a particular store is sitting and compare the 2 distribution of opioids to that store in 3 comparison with other stores in the same 4 geographic area? Yes or no.</p> <p>5 MS. MILLER: Object to form.</p> <p>6 A. Again, there's no information to go on 7 that I can assign a score to something or rate 8 its importance of one data element.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. Okay. Did CVS have a system ever to 11 look at the -- where a store sits in a community 12 and compare the purchases of that store for 13 controlled substances to other like stores in 14 the same geographic area?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. I'm not saying that they don't, but I 17 don't know what that process would be. I don't 18 know.</p> <p>19 BY MR. ELSNER:</p> <p>20 Q. Was that ever part of the due 21 diligence follow-up process that you were aware 22 of in terms of reviewing potentially suspicious 23 orders for hydrocodone?</p> <p>24 MS. MILLER: Object to form.</p>	<p>1 Number 1, "I acted as the team's 2 manager for part of 2014 until Susan was brought 3 on to manage the team."</p> <p>4 Does that refresh your recollection 5 that you were the team manager for the SOM 6 program in 2014?</p> <p>7 A. I think that's really poorly worded. 8 At no point did the SOM team ever report to me 9 that I recall.</p> <p>10 Q. That's what you wrote, though, in your 11 annual review?</p> <p>12 MS. MILLER: Object to form.</p> <p>13 A. I don't specifically remember writing 14 that, but this seems to be my year-end review in 15 2014.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. Okay. So we're on Exhibit 18?</p> <p>18 A. 18.</p> <p>19 MS. MILLER: Is this 18? Okay.</p> <p>20 BY MR. ELSNER:</p> <p>21 Q. We're on Exhibit 18, and I've shown 22 you documents from 2012 through 2014, many of 23 which you wrote. Is it true that you don't have 24 any memory of any of the documents I've shown</p>

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<p>1 you today?</p> <p>2 MS. MILLER: Object to form.</p> <p>3 A. I don't recall specifically writing</p> <p>4 these words that are on the page. I see them</p> <p>5 written there. I don't have any reason to</p> <p>6 believe that I didn't, if that's what it's</p> <p>7 indicating, but I do not recall writing these</p> <p>8 documents.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. Okay. I just want to make sure that I</p> <p>11 haven't missed one.</p> <p>12 Out of all the documents I've shown</p> <p>13 you that you've authored, you haven't remembered</p> <p>14 writing any of them, right?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. I don't recall a document that we've</p> <p>17 reviewed today that I recall actually sitting</p> <p>18 there and drafting the document.</p> <p>19 BY MR. ELSNER:</p> <p>20 Q. I just asked if you remembered it. I</p> <p>21 didn't ask if you remember the day you sat there</p> <p>22 and where you were and how you wrote it. I just</p> <p>23 asked if you remember the document. Do you</p> <p>24 remember any of them?</p>	<p>1 A. I don't know what Susan's position was</p> <p>2 when she was originally hired at CVS.</p> <p>3 Q. Do you remember that she was</p> <p>4 responsible for managing the SOM program?</p> <p>5 A. I remember at some point Susan was</p> <p>6 hired as the manager of the SOM program.</p> <p>7 Q. And you worked to get her up to speed</p> <p>8 on the program, right?</p> <p>9 MS. MILLER: Object to form.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. Is that what you wrote?</p> <p>12 A. That's what it says. I did work with</p> <p>13 Susan once she was hired.</p> <p>14 Q. Okay. And then it says that you</p> <p>15 "Assisted with the rollout of the SOM system to</p> <p>16 all CVS Distribution Centers." Did I read that</p> <p>17 right?</p> <p>18 A. Looks like --</p> <p>19 Q. Second bullet.</p> <p>20 A. Looks like you read that correctly.</p> <p>21 Q. Okay. Is that true? Did you do that?</p> <p>22 A. At some level I assisted with the</p> <p>23 process, I participated in the process.</p> <p>24 Q. Okay. And that you were "part of the</p>
<p style="text-align: center;">Page 291</p> <p>1 MS. MILLER: Object to form.</p> <p>2 A. I don't recall seeing a document today</p> <p>3 that I recall drafting or remembering everything</p> <p>4 that was in those documents.</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. Okay. If you go down on the bullets</p> <p>7 on the same Page 2 of 7, it then says "Once</p> <p>8 Susan was hired, I worked to get her up to speed</p> <p>9 on the program and expectations/requirements."</p> <p>10 Did I read that correctly? If it's easier to</p> <p>11 read, you can see it on the screen blown up.</p> <p>12 A. Where was that last piece?</p> <p>13 Q. When Susan was hired --</p> <p>14 MR. ELSNER: Gina, back up at the top.</p> <p>15 Q. "Once Susan was hired," second</p> <p>16 sentence, first bullet.</p> <p>17 A. Okay.</p> <p>18 Q. Did I read that right?</p> <p>19 A. It appears that you did.</p> <p>20 Q. Who is Susan?</p> <p>21 A. That would be Susan Delmonico, I</p> <p>22 believe.</p> <p>23 Q. What was her position at CVS when she</p> <p>24 was hired?</p>	<p style="text-align: center;">Page 293</p> <p>1 interviewing process for all new hires," I</p> <p>2 assume you were meaning related to the SOM</p> <p>3 system. Did you do that?</p> <p>4 A. I participated in the interview</p> <p>5 process of, what I can remember, the SOM team</p> <p>6 members that were hired.</p> <p>7 Q. Okay. And next bullet, you provided</p> <p>8 "continuous training to the team as needed and</p> <p>9 provided ongoing support to both the Management</p> <p>10 team as well as the SOM analysts." Did I read</p> <p>11 that correctly?</p> <p>12 A. It looks like that's what it says.</p> <p>13 Q. And then it says you participated in</p> <p>14 weekly meetings where we reviewed the SOM cases</p> <p>15 and we talked through the due diligence</p> <p>16 process." Did you write that?</p> <p>17 A. That's what it says, but I don't</p> <p>18 remember how long I did that for.</p> <p>19 Q. Then it says "The SOM team has me</p> <p>20 review all identified 'Suspicious Orders' before</p> <p>21 the block is removed and controlled substances</p> <p>22 are shipped to the store."</p> <p>23 Did I read that correctly?</p> <p>24 A. That's what it says.</p>

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<p>1 Q. Okay. So if we go back to my 2 question, I was asking you whether one of the 3 factors that the SOM analysts would look at when 4 doing a due diligence review was the shipments 5 of controlled substances to a pharmacy and how 6 those shipments compared with other pharmacies 7 in the same geographic area. Did they evaluate 8 that?</p> <p>9 MS. MILLER: Object to form.</p> <p>10 A. Again, I don't recall if that was part 11 of the review process.</p> <p>12 BY MR. ELSNER:</p> <p>13 Q. Okay. If you go to Page 25 --</p> <p>14 MS. MILLER: 17, Exhibit 17?</p> <p>15 MR. ELSNER: Yes, back to 17.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. There's a heading there that says "CVS 18 219." Do you see that? This is Page 25 of the 19 brief.</p> <p>20 A. I see CVS 219 underlined.</p> <p>21 Q. Yes. Okay. And they're talking about 22 the testimony that's going to potentially be 23 given by GS Carter. And then in the second 24 sentence it reads "According to an analysis</p>	<p>1 A. Could be a red flag for many things. 2 Q. Under the suspicious order monitoring 3 system and the due diligence review conducted by 4 the SOM analysts, was it one of the elements 5 they were looking at, whether there were 6 purchases of controlled substances from 7 pharmacies paid for in cash?</p> <p>8 A. Again, I wasn't at CVS at this time. 9 I don't know exactly what they were looking at 10 during due diligence.</p> <p>11 Q. Well, when you were overseeing the SOM 12 analysts, were they -- was that one of the 13 factors that they were taking into the account, 14 whether prescriptions were being paid for in 15 cash?</p> <p>16 MS. MILLER: Object to form.</p> <p>17 A. I believe that is one of the data 18 elements that's available to the analysts today.</p> <p>19 BY MR. ELSNER:</p> <p>20 Q. How important is that element, 1 to 21 10, 1 being totally useless, 10 being essential?</p> <p>22 MS. MILLER: Object to form.</p> <p>23 A. Again, like the previous times you've 24 asked me to put a number or rating on something,</p>
<p>1 conducted by GS Carter, between January 1, 2010 2 and October 18, 2011, 42 percent of the 3 30-milligram oxycodone prescriptions at CVS 219 4 were paid for in cash, using no insurance to pay 5 for the medication." Did I read that correctly?</p> <p>6 A. That appears to be what it says.</p> <p>7 Q. Were you aware that that was taking 8 place at the CVS Pharmacy 219 as part of the 9 DEA's investigation into Cardinal Health that 10 you described in your PowerPoint?</p> <p>11 MS. MILLER: Object to form.</p> <p>12 A. This is my first time seeing the 13 document. I wasn't at CVS at this time. I 14 don't -- these details are not something that 15 are familiar to me.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. Would you agree with me that paying 18 for prescriptions of controlled substances in 19 cash is one of the red flags for diversion?</p> <p>20 MS. MILLER: Object to form.</p> <p>21 A. It could potentially be a red flag. I 22 don't know specifically for diversion.</p> <p>23 BY MR. ELSNER:</p> <p>24 Q. Red flag for what?</p>	<p>1 without, I think, a lot more specifics I'm not 2 comfortable -- I can't guess at what rating it 3 would be.</p> <p>4 BY MR. ELSNER:</p> <p>5 Q. Well, if we turn back to Exhibit 17 on 6 Page 25, the percentage there was 42 percent of 7 the 30-milligram oxycodone prescriptions at CVS 8 219 were paid for in cash using no insurance. 9 And if you go further down to the very end of 10 that paragraph the government wrote that "Data 11 from the IMS Institute for Healthcare 12 Informatics indicates that approximately 13 6.9 percent of prescriptions were paid for in 14 cash in 2010."</p> <p>15 Would it be important as part of the 16 due diligence process to know that if the 17 average for prescription payments in cash was 18 6.9 percent, and there was a CVS Pharmacy that 19 was selling prescriptions for controlled 20 substances and 42 percent of them were being 21 paid for in cash, would that cause you to 22 believe that it's a potentially suspicious order 23 and that it should be investigated?</p> <p>24 MS. MILLER: Object to form.</p>

<p style="text-align: right;">Page 298</p> <p>1 A. That one data element, knowing nothing 2 else about where this store is located or other 3 information that the analyst is looking at, I 4 can't say that would cause me concern. I don't 5 know enough about the situation.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. What else would you want to know? 8 What else were your analysts calling to find out 9 in 2014 when they were doing this work?</p> <p>10 MS. MILLER: Object to form.</p> <p>11 A. I was not part of the day-to-day 12 process. The analysts made a determination of 13 what they thought was important to look at 14 and --</p> <p>15 BY MR. ELSNER:</p> <p>16 Q. No suspicious orders would be cleared 17 without your approval --</p> <p>18 MS. MILLER: Object to form.</p> <p>19 BY MR. ELSNER:</p> <p>20 Q. -- so what did you look at to 21 determine whether they should be approved or 22 not?</p> <p>23 MS. MILLER: Object to form.</p> <p>24 BY MR. ELSNER:</p>	<p style="text-align: right;">Page 300</p> <p>1 situation is different, every situation might 2 require that they look at different -- well, not 3 require, but if they feel like they might look 4 at different factors. I can't sit here and tell 5 you when an order flags what exactly they should 6 do. I wasn't part of that process, and that's 7 up to their determination.</p> <p>8 BY MR. ELSNER:</p> <p>9 Q. But you managed that program in 2014, 10 right?</p> <p>11 MS. MILLER: Object to form.</p> <p>12 BY MR. ELSNER:</p> <p>13 Q. That's what you wrote, right?</p> <p>14 A. I know what that says, but I was not 15 the manager of anyone on that team.</p> <p>16 Q. Who was?</p> <p>17 A. I don't recall who they reported to.</p> <p>18 Q. They reported to you, right? You 19 hired that team, they reported to you until 20 Susan was hired, right?</p> <p>21 MS. MILLER: Object to form.</p> <p>22 A. My role is not to hire the team. I 23 participated in the interviews.</p> <p>24 BY MR. ELSNER:</p>
<p style="text-align: right;">Page 299</p> <p>1 Q. What were the data points?</p> <p>2 A. I don't recall my role ever being 3 reviewing every single thing, looking at every 4 single thing that an analyst did on every single 5 suspicious order. I would look at what actions 6 were taken to address whatever concern the 7 analysts had and feel comfortable that the -- 8 whatever the concern was was addressed. That 9 was my role in providing feedback as to whether 10 or not I felt an order should be released, or 11 should resume.</p> <p>12 Q. You had weekly meetings with the SOM 13 analyst team to go over potentially suspicious 14 orders, and I want to know, what were they doing 15 when they were doing a deep dive to determine 16 whether an order was suspicious or not? What 17 were they looking at?</p> <p>18 MS. MILLER: Object to form.</p> <p>19 A. Every situation is different.</p> <p>20 BY MR. ELSNER:</p> <p>21 Q. Tell me what the factors were.</p> <p>22 MS. MILLER: Object to form.</p> <p>23 A. Man, there are hundreds and hundreds 24 of factors that they can consider. Every</p>	<p style="text-align: right;">Page 301</p> <p>1 Q. You managed them until Susan was 2 hired, right?</p> <p>3 MS. MILLER: Object to form.</p> <p>4 A. I mean, that's what it says. Nobody 5 on that team ever reported to me. I provided 6 guidance and support.</p> <p>7 BY MR. ELSNER:</p> <p>8 Q. You provided continuous training to 9 the team, right?</p> <p>10 A. At the time I wrote that, I don't know 11 what I meant by training, but I did continue to 12 support the team as needed.</p> <p>13 Q. Okay. So I need you to tell me, what 14 are, like, the top ten criteria that they would 15 be looking at when they were doing a deep dive 16 on a store?</p> <p>17 MS. MILLER: Object to form.</p> <p>18 A. I can't say. Every order is 19 different. There is no top ten that I can think 20 of. It's --</p> <p>21 BY MR. ELSNER:</p> <p>22 Q. Give me some factors. Give me some 23 elements that they were asked to look for. You 24 had to tell them to look for something, so what</p>

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<p>1 did you tell them to do?</p> <p>2 MS. MILLER: Object to form.</p> <p>3 A. There was information available for</p> <p>4 them to look at, depending on a wide flag and</p> <p>5 the information they were looking at. There was</p> <p>6 no one way where I said this has to be done. I</p> <p>7 don't know of any official rule book on what has</p> <p>8 to be done.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. Okay. So there are no -- there's no</p> <p>11 set minimum standard of what they had to look at</p> <p>12 before they decided an order was clear, is that</p> <p>13 right?</p> <p>14 MS. MILLER: Object to form.</p> <p>15 A. It's up to the analyst to decide</p> <p>16 what's the appropriate level of review in order</p> <p>17 to feel comfortable with releasing an order.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. And there was no official rule book on</p> <p>20 what was to be done at CVS regarding the</p> <p>21 analyst's review of suspicious orders, correct?</p> <p>22 MS. MILLER: Object to form.</p> <p>23 A. So in 2014 I know we had policies</p> <p>24 around SOM, and then, as I understand, policies</p>	<p>1 DEA from our distribution centers? Did you ever</p> <p>2 do that?</p> <p>3 MS. MILLER: Object to form.</p> <p>4 A. I don't ever recall requesting</p> <p>5 information on recorded orders.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. Did you know that in February of 2012</p> <p>8 there had only been -- that there was a</p> <p>9 suspicious order reported in February of 2012</p> <p>10 but none others at CVS from its distribution</p> <p>11 practices to the DEA?</p> <p>12 MS. MILLER: Object to form.</p> <p>13 A. I wasn't with the company in that</p> <p>14 time.</p> <p>15 BY MR. ELSNER:</p> <p>16 Q. Well, when you joined in August of</p> <p>17 2012, there had only been one suspicious order</p> <p>18 reported to the DEA ever from CVS related to its</p> <p>19 distribution practices from controlled</p> <p>20 substances. Were you aware of that?</p> <p>21 MS. MILLER: Object to form.</p> <p>22 A. I don't know if that is true.</p> <p>23 BY MR. ELSNER:</p> <p>24 Q. Would that concern you?</p>
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<p>1 and the SOM policy. It gives high-level</p> <p>2 guidelines on what the team should follow, but I</p> <p>3 don't recall it specifically calling out the</p> <p>4 exact steps that need to be taken on every</p> <p>5 single order that is flagged as an order of</p> <p>6 interest as they're all different and all</p> <p>7 require a different even level of attention or</p> <p>8 due diligence.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. When you started at -- let me see. Do</p> <p>11 you agree with me that -- strike that.</p> <p>12 When you started at CVS, did you</p> <p>13 investigate whether any suspicious orders had</p> <p>14 been reported to the DEA regarding the</p> <p>15 distribution of any controlled substances?</p> <p>16 MS. MILLER: Object to form.</p> <p>17 A. I don't recall ever looking into</p> <p>18 suspicious orders that were reported.</p> <p>19 BY MR. ELSNER:</p> <p>20 Q. Well, you were sort of looking at the</p> <p>21 old system, developing an enhanced or new</p> <p>22 system, did you ever make any assessment or</p> <p>23 determine whether -- you know, how are we doing,</p> <p>24 have we ever reported a suspicious order to the</p>	<p>1 MS. MILLER: Object to form.</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. That CVS had only reported one</p> <p>4 suspicious order from its distribution centers</p> <p>5 related to controlled substances?</p> <p>6 MS. MILLER: Object to form.</p> <p>7 A. Would that have concerned me when I</p> <p>8 started at CVS, having -- knowing nothing</p> <p>9 about -- not knowing much about the company and</p> <p>10 the processes, policies, but I wouldn't -- I</p> <p>11 don't think it would concern me. I wouldn't</p> <p>12 know enough for it to be concerning.</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. Well, I mean, you're in the position</p> <p>15 that you are now, and you're familiar with the</p> <p>16 Rannazzisi letter all the way back to 2007,</p> <p>17 December of 2007. You worked in compliance for</p> <p>18 Henry Schein for years. You then move over to</p> <p>19 CVS. Now you've been working at CVS for a very</p> <p>20 long time. Looking back on that whole history,</p> <p>21 does it concern you that CVS had only reported a</p> <p>22 single order to the DEA through February of 2012</p> <p>23 related to a suspicious order for a controlled</p> <p>24 substance?</p>

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<p>1        MS. MILLER: Object to form.</p> <p>2        A. Again, at the time I was hired I don't</p> <p>3 think I knew enough to say whether or not it</p> <p>4 would or would not be concerning. But I don't</p> <p>5 think it's fair to compare Henry Schein to CVS,</p> <p>6 that's apples and oranges between business</p> <p>7 models.</p> <p>8 BY MR. ELSNER:</p> <p>9        Q. Well, I'm asking you today. You're</p> <p>10 the -- the position that you hold at CVS today,</p> <p>11 holding that position with your years of</p> <p>12 experience, do you find it concerning that at</p> <p>13 the time when you started at the company in</p> <p>14 August of 2012 that CVS had only reported a</p> <p>15 single order to the DEA related to its</p> <p>16 distribution of controlled substances?</p> <p>17        MS. MILLER: Object to form.</p> <p>18        A. Sitting here today, knowing what I</p> <p>19 know, no, I don't think that would be</p> <p>20 concerning. Knowing all of the policies and</p> <p>21 processes and programs and the field alignment</p> <p>22 and how LP, loss prevention, is involved, no,</p> <p>23 that wouldn't be concerning. I wouldn't expect</p> <p>24 that there would be a lot of controlled</p>	<p>1 made some updates to the SOM Solutions based on</p> <p>2 our conversation. Should I send this to</p> <p>3 everyone in the meeting tomorrow?</p> <p>4        "I will bring handouts as well, but I</p> <p>5 know some people won't be able to make it.</p> <p>6 Thanks, Craig."</p> <p>7        Did I read that correctly?</p> <p>8        A. That's what it says.</p> <p>9        Q. Okay. What does SOM end state</p> <p>10 enhancement solution mean?</p> <p>11        A. I'm not sure. This is in October of</p> <p>12 2012 -- November of 2012, I was with the company</p> <p>13 for about three months at this time, and I know</p> <p>14 at this time I don't think there's any way that</p> <p>15 I could have known what the end state solution</p> <p>16 could be, so I'm not sure what that's referring</p> <p>17 to.</p> <p>18        Q. We talked earlier about the Buzzeo</p> <p>19 Group. You did a presentation for them while</p> <p>20 you were working at Henry Schein, is that right?</p> <p>21        MR. MONTMINY: Objection. Form.</p> <p>22        A. While I was working at Henry Schein, I</p> <p>23 did speak at one of their conferences.</p> <p>24 BY MR. ELSNER:</p>
<p>1 substance suspicious orders.</p> <p>2 BY MR. ELSNER:</p> <p>3        Q. Do you know what the system was in</p> <p>4 2012 when you started at CVS?</p> <p>5        MS. MILLER: Object to form.</p> <p>6        A. I don't recall the specifics of the</p> <p>7 system.</p> <p>8 BY MR. ELSNER:</p> <p>9        Q. So you don't know whether it was a</p> <p>10 robust system or not a robust system in 2012</p> <p>11 when you joined CVS, right?</p> <p>12        MS. MILLER: Object to form.</p> <p>13        A. I don't know the specifics of the</p> <p>14 system, but I don't ever recall having any</p> <p>15 concerns throughout my time at CVS that we</p> <p>16 didn't have an effective system.</p> <p>17        MR. ELSNER: Okay. This is</p> <p>18 Exhibit 19.</p> <p>19        (Whereupon, CVS-Schiavo-19 was marked</p> <p>20 for identification.)</p> <p>21 BY MR. ELSNER:</p> <p>22        Q. This is another e-mail from you to Tom</p> <p>23 Bourque dated 11/26/12, subject is the "SOM</p> <p>24 System End State Solution." You write "Tom, I</p>	<p>1 substance suspicious orders.</p> <p>2 BY MR. ELSNER:</p> <p>3        Q. And Buzzeo was one of the consultants</p> <p>4 that Henry Schein had hired, and you had worked</p> <p>5 with them in the past, correct?</p> <p>6        MR. MONTMINY: Objection. Form.</p> <p>7        A. I knew Buzzeo from Henry Schein and</p> <p>8 work we had done.</p> <p>9 BY MR. ELSNER:</p> <p>10        Q. Okay. And you knew that, when you</p> <p>11 joined CVS, that Buzzeo was one of the</p> <p>12 consultants that was working with CVS on its</p> <p>13 suspicious order monitoring system, correct?</p> <p>14        MS. MILLER: Object to form.</p> <p>15        A. I don't recall when I became aware</p> <p>16 that CVS and Buzzeo had any relationship.</p> <p>17        MR. ELSNER: I'm going to mark this as</p> <p>18 the next exhibit.</p> <p>19        (Whereupon, CVS-Schiavo-20 was marked</p> <p>20 for identification.)</p> <p>21 BY MR. ELSNER:</p> <p>22        Q. This is MR 82.</p> <p>23        A. Thank you.</p> <p>24        Q. This is a letter that was addressed to</p> <p>you on the second page as the manager of</p> <p>regulatory compliance and also to your boss, the</p>

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<p>1 director of regulatory compliance, Tom Bourque, 2 correct?</p> <p>3 A. That's what it appears to be.</p> <p>4 Q. Okay. Dated December 19, 2012?</p> <p>5 A. That's what it says.</p> <p>6 Q. Okay. And the subject is the "SOM 7 Model Services Proposal," right?</p> <p>8 A. "CVS_BuzzeoPDMA_SOM Model Services 9 Proposal."</p> <p>10 Q. And you had a meeting with them to 11 discuss the proposal, is that right?</p> <p>12 A. I don't recall this proposal ever 13 being discussed.</p> <p>14 Q. All right. It says in the first line 15 "Dear Tom and Craig, As a follow-up to our 16 meeting last week, I am pleased to provide you 17 with our proposal that outlines our SOM Model 18 support services."</p> <p>19 Did I read that right?</p> <p>20 A. "Please find our proposal to support 21 your new SOM initiatives" is what it says.</p> <p>22 Oh, you're on the document. I'm 23 sorry, I'm still on the e-mail.</p> <p>24 Q. I'm talking about the letter to you,</p>	<p>1 "Number 1. Combining all Controlled 2 Substances (CII through CV) and Listed Chemicals 3 into one SOM model." That's one of the 4 enhancements they were going to make to the SOM 5 program, right?</p> <p>6 MS. MILLER: Object to form.</p> <p>7 A. That seems to be in their proposal 8 that they provided to us.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. That indicates there wasn't one in 11 existence, right, that they were going to create 12 this as an enhancement to the current SOM 13 system, right?</p> <p>14 MS. MILLER: Object to form.</p> <p>15 A. I see it says there -- I can't confirm 16 and I don't recall that that was not part of the 17 system.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. They were providing a proposal for 20 something which they call as a new enhancement 21 that you already had, is that your testimony?</p> <p>22 MS. MILLER: Object to form.</p> <p>23 A. I see it says it there, but I don't 24 recall if that was -- I'm not sure what that's</p>
<p>Page 311</p> <p>1 which is the second page of the document 111914, 2 "Dear Tom and Craig, As a follow-up to our 3 meeting last week, I am pleased to provide you 4 with our proposal that outlines our SOM Model 5 support services that will assist in meeting 6 your regulatory and operational requirements."</p> <p>7 Did I read that correctly?</p> <p>8 A. That's what it says.</p> <p>9 Q. And this is a company that was 10 formerly the Buzzeo Group, is that right?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. If you turn to the second page 13 of the letter, it lists under "Project 1: SOM 14 Statistical Model Development."</p> <p>15 Do you see that?</p> <p>16 A. Where is --</p> <p>17 Q. There's a heading on the top of that 18 page.</p> <p>19 Do you see that?</p> <p>20 A. I see that.</p> <p>21 Q. All right. And it says that, at the 22 end of that paragraph, "This SOM statistical 23 model will incorporate a number of new 24 enhancements to your current model to include:</p>	<p>Page 313</p> <p>1 referring to. I don't recall if we were not 2 doing that.</p> <p>3 BY MR. ELSNER:</p> <p>4 Q. Under number 2, it's to "Incorporate 5 third-party distribution data into the new SOM 6 model as available."</p> <p>7 Do you see that?</p> <p>8 A. I see where it says that.</p> <p>9 Q. Okay. So we're going to incorporate 10 outside vendor distribution data into the SOM 11 model, correct?</p> <p>12 MS. MILLER: Object to form.</p> <p>13 A. I don't know what they mean by 14 third-party distribution data.</p> <p>15 BY MR. ELSNER:</p> <p>16 Q. You were part of the team that was 17 analyzing who CVS would hire to develop the new 18 SOM program, correct?</p> <p>19 A. I participated in those discussions.</p> <p>20 Q. And Buzzeo wasn't selected as the 21 vendor to use -- as the consultant to use for 22 that program, correct?</p> <p>23 A. The system that we developed and 24 currently have in place today, we did not use</p>

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<p>1 Buzzeo.</p> <p>2 Q. If you turn back to Mod Release 20,</p> <p>3 which is the prior exhibit, this is Exhibit 19,</p> <p>4 SOM End State Enhancement Solution.</p> <p>5 A. Okay.</p> <p>6 Q. And it says "Actions to Be Taken to</p> <p>7 Enhance CVS Process." Do you see where I'm</p> <p>8 reading?</p> <p>9 A. I see that.</p> <p>10 Q. Okay. And then under number 1, it</p> <p>11 says "Current Algorithm/Enhancements to</p> <p>12 Algorithm/Create New Algorithm," and then under</p> <p>13 "a" it says "Review our contracts with Buzzeo."</p> <p>14 Did I read that correctly?</p> <p>15 A. That's what that says.</p> <p>16 Q. Okay. And under that little Roman</p> <p>17 Numeral i, you write "Were they fired?"</p> <p>18 Do you see that?</p> <p>19 A. I see that.</p> <p>20 Q. Were they fired?</p> <p>21 MS. MILLER: Object to form.</p> <p>22 A. I'm not really sure what I was</p> <p>23 referring to when I wrote that. They were a</p> <p>24 consultant, and the term fired, I don't think we</p>	<p>1 Q. To the extent you know.</p> <p>2 MS. MILLER: -- to form. Object.</p> <p>3 To the extent it would reveal</p> <p>4 attorney/client communications, I instruct you</p> <p>5 not to answer.</p> <p>6 A. It wasn't my decision or call who was</p> <p>7 hired.</p> <p>8 BY MR. ELSNER:</p> <p>9 Q. Did anyone discuss with you any</p> <p>10 difficulties, frustrations with the Buzzeo</p> <p>11 Group?</p> <p>12 MS. MILLER: Object to form. Object</p> <p>13 on attorney/client privilege grounds.</p> <p>14 I instruct you not to answer to the</p> <p>15 extent it would reveal attorney/client</p> <p>16 communications.</p> <p>17 A. I don't recall any conversations</p> <p>18 regarding frustrations with Buzzeo as it relates</p> <p>19 to our SOM.</p> <p>20 BY MR. ELSNER:</p> <p>21 Q. Was there any criticisms of the Buzzeo</p> <p>22 Group from anyone at CVS that you're aware of?</p> <p>23 MS. MILLER: Object to form. Object</p> <p>24 on attorney/client privilege grounds.</p>
<p style="text-align: center;">Page 315</p> <p>1 would fire, so I don't know what that means.</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. That's what you wrote, right?</p> <p>4 MS. MILLER: Object to form.</p> <p>5 A. That's what the document says.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. Interesting, everyone else that's been</p> <p>8 asked this question that I'm aware of answered</p> <p>9 "I'm not sure if you can fire a consultant, you</p> <p>10 have you to ask the person who wrote it." So</p> <p>11 you're the person who wrote it. So what did you</p> <p>12 mean when you wrote "were they fired?" There's</p> <p>13 no one else for me to ask. I've asked everyone</p> <p>14 else. You're it. What is CVS's answer?</p> <p>15 MS. MILLER: Object to form.</p> <p>16 A. I don't remember writing this</p> <p>17 document, but in 2012, three months into my time</p> <p>18 at CVS, I do not recall what I meant by were</p> <p>19 they fired.</p> <p>20 BY MR. ELSNER:</p> <p>21 Q. Why did CVS hire AGI instead of</p> <p>22 Buzzeo?</p> <p>23 MS. MILLER: Object --</p> <p>24 BY MR. ELSNER:</p>	<p style="text-align: center;">Page 317</p> <p>1 I instruct you not to answer. I</p> <p>2 instruct the witness not to answer to the extent</p> <p>3 it would reveal any attorney/client</p> <p>4 communications.</p> <p>5 A. I can't recall any specific</p> <p>6 frustrations or conversations around it.</p> <p>7 BY MR. ELSNER:</p> <p>8 Q. Did you have a conversation with any</p> <p>9 attorney at CVS, and I don't want you to tell me</p> <p>10 what that conversation was, but did you have a</p> <p>11 conversation with any attorney at CVS before you</p> <p>12 prepared for this deposition today related to</p> <p>13 the firing of the Buzzeo Group?</p> <p>14 MS. MILLER: Object.</p> <p>15 BY MR. ELSNER:</p> <p>16 Q. Just yes or no.</p> <p>17 MS. MILLER: I'm going to object and</p> <p>18 instruct him not to answer.</p> <p>19 MR. ELSNER: On yes or no, whether he</p> <p>20 had a conversation about the topic --</p> <p>21 MS. MILLER: Well, you're saying --</p> <p>22 MR. ELSNER: -- without asking what</p> <p>23 the content of the conversation was?</p> <p>24 MS. MILLER: Well, you're saying in</p>

<p style="text-align: right;">Page 318</p> <p>1 your question, did you have a conversation with 2 any attorney related to the firing of the Buzzeo 3 Group.</p> <p>4 BY MR. ELSNER:</p> <p>5 Q. Did you have a conversation with any 6 attorney at CVS prior to your preparation for 7 this deposition today concerning the Buzzeo 8 Group?</p> <p>9 A. Not that I recall.</p> <p>10 MR. ELSNER: I don't understand the 11 basis of the objection.</p> <p>12 Q. To prepare for the deposition today, 13 what did you do?</p> <p>14 A. I had meetings with our internal and 15 outside counsel.</p> <p>16 Q. How long did you meet with counsel 17 inside CVS to prepare for today's deposition?</p> <p>18 MS. MILLER: Object to form.</p> <p>19 A. I believe we met three or four times.</p> <p>20 BY MR. ELSNER:</p> <p>21 Q. How long were those meetings?</p> <p>22 MS. MILLER: Object to form.</p> <p>23 A. They varied in length.</p> <p>24 BY MR. ELSNER:</p>	<p style="text-align: right;">Page 320</p> <p>1 MR. ELSNER: What's the objection? He 2 said most of the day, I asked six or 3 seven hours. What's the objection?</p> <p>4 MS. MILLER: Six or seven hours of the 5 day yesterday?</p> <p>6 MR. ELSNER: Yes.</p> <p>7 MS. MILLER: Just wasn't clear.</p> <p>8 MR. ELSNER: That's not a valid 9 objection.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. How many hours did you meet with your 12 counsel yesterday?</p> <p>13 A. We were probably together for seven 14 hours.</p> <p>15 Q. Okay. Did you review documents? Yes 16 or no.</p> <p>17 MS. MILLER: Objection.</p> <p>18 I'm going to instruct you not to 19 answer to the extent it would reveal any of the 20 documents that we discussed based on privilege 21 and work product. You may answer the question.</p> <p>22 A. We reviewed documents.</p> <p>23 BY MR. ELSNER:</p> <p>24 Q. Did you meet with counsel before</p>
<p style="text-align: right;">Page 319</p> <p>1 Q. What's your best estimate of the total 2 number of hours you met with inside counsel to 3 prepare for today's deposition?</p> <p>4 MS. MILLER: Object to form.</p> <p>5 A. I don't recall how long I prepared 6 with inside counsel, counsel at -- our internal 7 CVS counsel. I don't recall. I can't put hours 8 on it. I can't recall how long.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. What about your outside counsel, how 11 many days, hours did you spend preparing for 12 your deposition with them?</p> <p>13 A. We met three or four times.</p> <p>14 Q. Did you meet yesterday? Don't say you 15 don't recall.</p> <p>16 MS. MILLER: Object to form.</p> <p>17 Objection.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. Did you meet with counsel yesterday?</p> <p>20 A. Yes.</p> <p>21 Q. How long?</p> <p>22 A. Most of the day.</p> <p>23 Q. Seven hours, six hours?</p> <p>24 MS. MILLER: Object to form.</p>	<p style="text-align: right;">Page 321</p> <p>1 yesterday?</p> <p>2 A. Yes.</p> <p>3 Q. When was the prior meeting and how 4 long did it last, roughly?</p> <p>5 A. Prior meeting was Tuesday.</p> <p>6 Q. How long?</p> <p>7 A. Most of the day.</p> <p>8 Q. Six, seven hours?</p> <p>9 A. I don't remember exactly.</p> <p>10 MS. MILLER: Object to form.</p> <p>11 A. I don't remember exactly how long.</p> <p>12 BY MR. ELSNER:</p> <p>13 Q. What time did you start?</p> <p>14 A. Sometime after 10:00 o'clock.</p> <p>15 Q. Where did you meet?</p> <p>16 A. At One CVS.</p> <p>17 Q. When did the meeting end; before 18 lunch, after lunch?</p> <p>19 A. I don't recall when it ended.</p> <p>20 Q. Dark outside, or not dark outside?</p> <p>21 MS. MILLER: Object to form.</p> <p>22 BY MR. ELSNER:</p> <p>23 Q. This was Tuesday, right?</p> <p>24 MS. MILLER: Object to form.</p>

<p style="text-align: right;">Page 322</p> <p>1 A. I don't recall exactly the time that 2 it ended. 3 BY MR. ELSNER: 4 Q. Did you meet for more or less than 5 four hours that day? 6 A. I don't remember exactly how long we 7 met. It was for a number of hours. 8 MR. ELSNER: To move this along, can 9 you give us an idea of how long you spent with 10 the witness preparing for the deposition? He 11 seems unable to recall what happened this week. 12 MS. MILLER: I'm not going to make a 13 representation. Ask your questions. 14 MR. ELSNER: You're unwilling to tell 15 us how long you met with the witness? 16 MS. MILLER: No, I just -- 17 MR. ELSNER: He can't answer the 18 question. 19 MS. MILLER: He is answering the 20 question. He's trying -- 21 MR. ELSNER: He says he can't 22 remember. 23 MS. MILLER: Well, he said -- 24 MR. ELSNER: He can't remember when</p>	<p style="text-align: right;">Page 324</p> <p>1 the day. 2 Q. You spent a good part of the day 3 meeting with counsel on Monday, a good part of 4 the day meeting with counsel on Tuesday, and you 5 spent seven hours yesterday, is that right? 6 A. I don't know -- 7 MS. MILLER: Object to form. 8 MR. ELSNER: That's what his testimony 9 was, right? 10 A. I don't know exactly how long we spent 11 yesterday, but it was most of the day, a good 12 part of the day. 13 BY MR. ELSNER: 14 Q. I thought you said seven hours. 15 Did you meet over the weekend? 16 A. We did not meet over the weekend. 17 Q. Did you meet last week? 18 A. We did not meet last week. 19 Q. And none of the process and system, 20 the questions that I've talked with you about 21 today, from 2014 to 2012, you did not have any 22 memory of any of those things we discussed, 23 correct? 24 MS. MILLER: Object to form.</p>
<p style="text-align: right;">Page 323</p> <p>1 the meeting ended on Tuesday. It began at 2 10:00 in the morning, and he can't tell me when 3 it ended. 4 BY MR. ELSNER: 5 Q. Did you go past lunch? Did you work 6 into the evening? I mean, five, six hours? 7 Please, someone, either of you, tell me. Can 8 you answer the question? 9 A. Tuesday we met for a good part of the 10 day. I don't remember exactly. 11 Q. What does that mean, "a good part of 12 the day"?" 13 A. I had many other meetings during the 14 day, so I don't know exactly how long we met 15 for. 16 Q. Prior to that meeting on Tuesday and 17 the one yesterday, did you meet with counsel to 18 prepare for the deposition before that? 19 A. We met on Monday. 20 Q. So you met on Monday, you met on 21 Tuesday, and you met yesterday. How long did 22 you spend on Monday preparing for the 23 deposition? 24 A. I believe Monday was a good part of</p>	<p style="text-align: right;">Page 325</p> <p>1 That's not what he testified to. He 2 testified -- 3 MR. ELSNER: Well, the jury can 4 determine that. 5 BY MR. ELSNER: 6 Q. Is there something in particular that 7 you remember that we discussed today that you 8 can highlight for me? 9 MS. MILLER: Object to form. 10 The record speaks for itself. He's 11 testified about the processing systems between 12 2012 and 2014. 13 MR. ELSNER: You can say object to 14 form. 15 BY MR. ELSNER: 16 Q. What's the answer, please? 17 A. Nothing that we have reviewed today, 18 to the best of my recollection, I recall from 19 the time either they were created or they were 20 first reviewed by me. I don't recall the 21 documents. 22 Q. Did you meet with the Analysis Group 23 to consider their proposal to develop and 24 enhance suspicious monitoring system for CVS?</p>

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<p>1 A. I participated in meetings with AG      2 where enhancements to the system or the new      3 system were discussed.</p> <p>4 Q. You were among the team that      5 reviewed -- that solicited and reviewed      6 proposals to partner with CVS in the development      7 of a suspicious order monitoring algorithm and      8 system, correct?</p> <p>9 MS. MILLER: Objection. I'd like to      10 lodge an objection right after the question in      11 296:04. It's a follow-up to the prior question      12 I'd objected to, but I'd like that reflected on      13 the record. Thank you.</p> <p>14 I apologize for interrupting on the      15 record.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. You were among the team that reviewed      18 and solicited -- that solicited and reviewed      19 proposals for consultants to assist CVS with its      20 development of an SOM algorithm and enhanced      21 program, correct?</p> <p>22 A. I was part of a team that was      23 participating in conversations prior to      24 selecting a vendor. I don't remember viewing</p>	<p>1 column for Duration, Start, Finish, and      2 Percentage Complete.      3 Do you see that?</p> <p>4 A. I see that.</p> <p>5 Q. Okay. And you drafted this?</p> <p>6 A. I don't know if I drafted this.</p> <p>7 Q. You sent it to your boss, right?</p> <p>8 A. I sent it to my boss.</p> <p>9 Q. And you said these are the documents      10 that you mentioned in your status report, so are      11 these documents that you drafted or did somebody      12 else draft these?</p> <p>13 A. I don't recall. I don't remember      14 drafting this.</p> <p>15 Q. Would there have been anyone else that      16 would have drafted this, to your knowledge, that      17 you would have sent to Mr. Bourque? I couldn't      18 see any other e-mails where someone forwarded it      19 to you.</p> <p>20 MS. MILLER: Object to form.</p> <p>21 A. It's very possible someone else      22 drafted this.</p> <p>23 BY MR. ELSNER:</p> <p>24 Q. Who would it be?</p>
Page 327	Page 329
<p>1 any specific proposals.</p> <p>2 Q. How many other vendors submitted      3 proposals? Was it anyone other than the Buzzeo      4 Group and the Analysis Group?</p> <p>5 A. Those are the only two that I recall.</p> <p>6 Q. Who would know if there are others?</p> <p>7 MS. MILLER: Object to form.</p> <p>8 A. I don't know who would know that.</p> <p>9 MR. ELSNER: This is Motley Rice 9.</p> <p>10 I'm going to mark this as the next exhibit.</p> <p>11 (Whereupon, CVS-Schiavo-21 was marked      12 for identification.)</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. This is another e-mail that you sent      15 to Tom Bourque. The date here is December 12,      16 2012. It reads "Opportunity Page, SOM Flow      17 Chart," and then you wrote "These are documents      18 mentioned in my status report just in case      19 Pawlik wants to see them when we are going over      20 the SOM slide or Inventory Cycle count slide."</p> <p>21 Did I read that correctly?</p> <p>22 A. That's what it says.</p> <p>23 Q. Okay. And then it appears to be a      24 list of kind of action items, and there's an a</p>	<p>1 A. It could have been anyone on the      2 current SOM team.</p> <p>3 Q. Okay. Can I ask you to look at      4 Page 103375? You see there's an ID number that      5 lists sequential numbers. If you go down to 48.      6 Do you see where I am? You go across 48. It      7 reads "Gap Analysis between current SOM &amp; New."      8 Do you see that?</p> <p>9 A. I see that.</p> <p>10 Q. All right. And then if you go over to      11 Percentage Complete, it says 50 percent.      12 Do you see that?</p> <p>13 A. I see where it says that.</p> <p>14 Q. Okay. And then the Resource Names      15 associated with that analysis are you and      16 Tolley. Is that right?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. So you were to perform a gap      19 analysis between the current SOM system in place      20 in 2012 and the new system that you were going      21 to develop, is that right?</p> <p>22 MS. MILLER: Object to form. Object      23 on attorney/client privilege grounds.</p> <p>24 To the extent the witness can answer</p>

<p style="text-align: right;">Page 330</p> <p>1 the question without revealing attorney/client      2 communications, you can answer.      3 A. I see what it says there. I see my      4 name with Tulley's name. I don't recall doing a      5 gap analysis. I don't recall doing that.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. Did CVS ever compare the old system      8 and come up with a list of items that are going      9 to be in the new system other than the documents      10 that I've shown you today that you drafted about      11 that? Is there anyone at CVS, to your      12 knowledge, that would do that?</p> <p>13 MS. MILLER: Object to form. Object      14 on attorney/client privilege grounds.</p> <p>15 And to the extent the witness can      16 answer the question without revealing      17 attorney/client communications, he can answer.      18 Otherwise I instruct him not to answer.</p> <p>19 A. I don't recall anyone that did that.</p> <p>20 BY MR. ELSNER:</p> <p>21 Q. Your name is listed next to that task,      22 correct, with Tulley? Who is Tulley?</p> <p>23 A. I believe that's Chris Tulley.</p> <p>24 Q. And your name is listed with his as</p>	<p style="text-align: right;">Page 332</p> <p>1 MS. MILLER: Object to form.      2 A. I see what it says there, but at no      3 time do I recall it being my responsibility to      4 develop any kind of algorithm. I don't know how      5 I would do that.</p> <p>6 MR. ELSNER: Why don't we go off the      7 record quickly?</p> <p>8 THE VIDEOGRAPHER: We're going off the      9 record at 3:41 p.m.</p> <p>10 (Whereupon, a recess was taken.)</p> <p>11 THE VIDEOGRAPHER: We're back on the      12 record at 3:47 p.m.</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. Mr. Schiavo, I put back before you      15 your year-end review from 2012. This is      16 Exhibit 9. We looked at this earlier. It's      17 dated January 25th, 2013. I'm going to ask you      18 to look at Page 8 of 11, which is at 120603.</p> <p>19 A. Okay.</p> <p>20 Q. Okay. And at the end of that first      21 full paragraph, it says "To date, I have      22 contributed to the following."</p> <p>23 Do you see where I'm at?</p> <p>24 A. I see where you're at.</p>
<p style="text-align: right;">Page 331</p> <p>1 responsible for that task, correct?      2 A. My name with Chris's is in the      3 resources name.</p> <p>4 Q. You were also responsible for      5 identifying all the DEA requirements in the next      6 item, correct, item 49?</p> <p>7 A. I see my name there, but I don't think      8 I would be relied on to identify all DEA      9 requirements.</p> <p>10 Q. If you go to the next page under 53,      11 it says "Develop an algorithm methodology to      12 find orders of interest (using Thresholding      13 approach)." You and Tulley are listed there,      14 correct?</p> <p>15 MS. MILLER: Mike, where are you?      16 MR. ELSNER: I'm at 63.      17 MS. MILLER: 63.      18 MR. ELSNER: 103376.      19 MS. MILLER: Thank you.      20 A. I see my name there.</p> <p>21 BY MR. ELSNER:</p> <p>22 Q. Okay. It's one of your      23 responsibilities under the new SOM system, is      24 that right?</p>	<p style="text-align: right;">Page 333</p> <p>1 Q. Okay. And the first plus there, it      2 says "To identify gaps in the current SOM system      3 that need to be addressed when developing the      4 new system."      5 Did I read that correctly?      6 A. That's what that says.      7 Q. And did you do that?      8 MS. MILLER: Object to form.      9 A. I don't recall ever doing a deep dive      10 into the system at this time and identifying      11 CAPS. I think at the time of this review I was      12 probably with CVS for a few months.</p> <p>13 BY MR. ELSNER:</p> <p>14 Q. That's what you wrote, though, right,      15 "Identify gaps in the current SOM system that      16 need to be addressed when developing the new      17 system," correct?      18 A. That's what it says in my year-end      19 review.      20 Q. Okay. And that's what it said in the      21 document we just looked at, that you were going      22 to do a gap review, correct?      23 MS. MILLER: Object to form.      24 A. It's -- I recall it saying something</p>

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<p>1 about doing a gap analysis in the other      2 document.</p> <p>3 BY MR. ELSNER:</p> <p>4 Q. Comparing the old system to the new      5 system, right?</p> <p>6 MS. MILLER: Object to form.</p> <p>7 A. Can I look to see what the exact      8 wording was?</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. Sure.</p> <p>11 A. Do we know which number it was?</p> <p>12 Q. I believe it was 48 or 49.</p> <p>13 MS. VELDMAN: 63.</p> <p>14 A. 63 was "Develop algorithm      15 methodology."</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. I think it's the page before that.</p> <p>18 A. 48 says "Gap analysis between current      19 SOM and new SOM."</p> <p>20 Q. And that's what you wrote in your      21 review, "Identify gaps in the current SOM system      22 that need to be addressed when developing the      23 new system," right?</p> <p>24 MS. MILLER: Object to form.</p>	<p>1 review?</p> <p>2 A. It says that one of the things that I      3 contributed with was "selecting AGI to help      4 develop an algorithm," and I read that much      5 differently than me being responsible for      6 developing an algorithm.</p> <p>7 Q. But you worked on it, right?</p> <p>8 MS. MILLER: Objection to form.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. I didn't say you were the only one      11 responsible. That was one of the things you      12 worked on, right?</p> <p>13 A. I was -- I participated in meetings      14 with other team members, but I don't think I had      15 a role in developing, writing the algorithm.</p> <p>16 Q. Okay. Toward the bottom it says      17 "Drafting of the Stop Order/Order Resumption      18 SOP." You contributed to that, right?</p> <p>19 MS. MILLER: Object to form.</p> <p>20 You're on the --</p> <p>21 BY MR. ELSNER:</p> <p>22 Q. Back on your annual review, second to      23 last plus.</p> <p>24 A. I see "Drafting of Stop Order/Order</p>
<p style="text-align: center;">Page 335</p> <p>1 A. It says I contributed to that process.      2 I don't remember to what extent.</p> <p>3 BY MR. ELSNER:</p> <p>4 Q. Okay. Two more plusses down it says      5 "Selecting AGI as the vendor to help develop an      6 algorithm in order to identify potentially      7 suspicious orders."</p> <p>8 Did I read that correctly?</p> <p>9 A. That's what it says.</p> <p>10 Q. Okay. And then on 63 of the prior      11 exhibit, line 63, it says "Develop algorithm      12 methodology to find orders of interest."</p> <p>13 Correct?</p> <p>14 MS. MILLER: Object to form.</p> <p>15 A. This is saying with my name next to it      16 "Develop algorithm methodology." But again, I      17 don't ever recall being in charge of developing      18 an algorithm.</p> <p>19 BY MR. ELSNER:</p> <p>20 Q. Well, one of the items that you wrote      21 in your annual review was "Selecting AGI as the      22 vendor to help develop an algorithm in order to      23 identify potentially suspicious orders." Is      24 that one of the things listed in your annual</p>	<p style="text-align: center;">Page 337</p> <p>1 Resumption SOP." But that's not a -- that is      2 not a policy that I'm -- I recall or am familiar      3 with. I don't know if that was ever an official      4 policy.</p> <p>5 Q. Well, we saw those documents today.      6 Was it not an official policy of CVS, the policy      7 that you drafted with Aaron Burtner?</p> <p>8 MS. MILLER: Object to form.</p> <p>9 And maybe it would be helpful to show      10 him the exhibit that you're referring to so he      11 can take a look.</p> <p>12 BY MR. ELSNER:</p> <p>13 Q. You don't recall working on that      14 policy with Aaron Burtner, a stop order policy,      15 whether we were going to ship -- whether we were      16 going to stop the order of that exact drug or      17 the family of drugs? We discussed it for about      18 20 minutes.</p> <p>19 MS. MILLER: Object to form. He's      20 already given testimony on it.</p> <p>21 MR. ELSNER: I know, that's why I      22 thought it would be simple to say one of the      23 things that was listed was the drafting of the      24 stop order/order resumption SOP.</p>

<p style="text-align: right;">Page 338</p> <p>1 BY MR. ELSNER:</p> <p>2 Q. That's one of the things listed in the 3 review, correct?</p> <p>4 A. I don't recall the title of the policy 5 we reviewed today is the same policy that's 6 referred to right here. I don't recall the 7 title of the policies we reviewed today.</p> <p>8 Q. Did you write in your annual review -- 9 did you write "Drafting of the Stop Order/Order 10 Resumption SOP"? Yes or no.</p> <p>11 A. It says there that I drafted the stop 12 order/order resumption SOP, which is a policy. 13 I'm not sure what policy that's referring to.</p> <p>14 Q. I know, we've established you can't 15 remember.</p> <p>16 MS. MILLER: Object to form.</p> <p>17 BY MR. ELSNER:</p> <p>18 Q. The next plus says "Providing input on 19 key decisions (Reporting to DEA offices, what 20 drugs to hold when an order flags, whether or 21 not to include outside vendor orders)."</p> <p>22 Correct?</p> <p>23 A. That's what that says.</p> <p>24 Q. Okay. So there was a discussion at</p>	<p style="text-align: right;">Page 340</p> <p>1 is in 2012 when I don't believe any final 2 decisions have been made on how our new or 3 enhanced system was -- all the elements that 4 were going to be in there.</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. I understand. But that's one of the 7 things you provided input on, right, whether to 8 do the family of drugs or specific drugs or all 9 controlled drugs, right?</p> <p>10 A. That's what it says.</p> <p>11 Q. It also says you were going to provide 12 input on reporting to the DEA offices, correct?</p> <p>13 A. That's what it says.</p> <p>14 MR. ELSNER: Okay. Mark this next 15 document as Exhibit 22. This is Motley Rice 23. 16 (Whereupon, CVS-Schiavo-22 was marked 17 for identification.)</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. CVS did hire the Analysis Group as a 20 consultant, right?</p> <p>21 A. That's who we used to develop -- help 22 develop our SOM system.</p> <p>23 Q. And so CVS hired them as a consultant, 24 is that right? Well, they didn't do it for</p>
<p style="text-align: right;">Page 339</p> <p>1 CVS whether or not to include outside vendor 2 orders as part of the SOM process in 2012, 3 correct?</p> <p>4 MS. MILLER: Object to form.</p> <p>5 A. In 2012 I believe we discussed the 6 potential of including OV order in the new or 7 enhanced system that we were building.</p> <p>8 BY MR. ELSNER:</p> <p>9 Q. Okay. And it did not exist in the old 10 system, right?</p> <p>11 MS. MILLER: Object to form.</p> <p>12 A. I don't recall if OV orders were part 13 of the old system or not.</p> <p>14 BY MR. ELSNER:</p> <p>15 Q. I'm going to mark this.</p> <p>16 Also in there is you provided input on 17 another key decision, which was what drugs to 18 hold when an order flags, is that right, whether 19 to hold that specific drug or whether to hold 20 the family of drugs? That's one of the other 21 things that you provided input on for key 22 decisions, correct?</p> <p>23 MS. MILLER: Object to form.</p> <p>24 A. That's what it says. But again, this</p>	<p style="text-align: right;">Page 341</p> <p>1 free, right?</p> <p>2 A. That's -- yes, that's who we used to 3 do it.</p> <p>4 Q. And you hired them?</p> <p>5 A. I didn't personally hire them.</p> <p>6 Q. I asked if CVS hired them.</p> <p>7 MS. MILLER: Object to form.</p> <p>8 BY MR. ELSNER:</p> <p>9 Q. Did CVS hire the Analysis Group to 10 assist it in developing its SOM program?</p> <p>11 A. Yes, the Analysis Group helped us 12 developed our SOM.</p> <p>13 Q. In February of 2013 there is this 14 note, that memo, from the Analysis Group which 15 is a request for data for the SOM algorithm data 16 inputs. Do you see that in the "Re" line? The 17 date is February 4, 2013.</p> <p>18 A. I see that.</p> <p>19 Q. And there's some -- there's a listing 20 here at the end of the second paragraph, there's 21 sort of some numbers here, 1 through 10. This 22 is the data that the Analysis Group was 23 requesting in order to build the algorithm.</p> <p>24 Do you see that?</p>

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<p>1 A. I see the listing of elements there      2 that it looks like they're requesting.      3 Q. Okay. Who at CVS was responsible for      4 gathering this information to provide to the      5 Analysis Group, to the extent you know?      6 A. I don't know who would have provided      7 this information.      8 Q. Did you ever review the information or      9 the data that the Analysis Group was going to      10 use to compile the algorithm?      11 A. I don't recall reviewing any specific      12 data provided to Analysis Group.      13 Q. Under 8 it says "Store dispensing,"      14 and it lists under A, B, C and D, prescription      15 information, patient information, prescriber      16 information, pharmacist information. Is this      17 information -- was that a component of the SOM      18 program in place in 2012 at CVS and early 2013?      19 MS. MILLER: Object to form.      20 A. I don't recall whether it was or was      21 not included.      22 BY MR. ELSNER:      23 Q. But it was information that was      24 include -- was sent to the Analysis Group to be</p>	<p>1 info, correct?      2 MS. MILLER: Object to form.      3 A. Speaking specifically to the      4 algorithms, I don't know what is in all of the      5 algorithms. However, I'm aware that these are      6 data elements that would be available to the SOM      7 analysts during due diligence.      8 BY MR. ELSNER:      9 Q. Today?      10 A. Today.      11 Q. Do you know what was available to the      12 SOM analysts in 2012 before this system went      13 into effect?      14 MS. MILLER: Object to form.      15 A. I don't know of all the information      16 that was available to them back in 2012.      17 BY MR. ELSNER:      18 Q. There was a period of time in which      19 the current SOM system was working at CVS and      20 you were working with the Analysis Group to      21 develop the new SOM system, correct?      22 A. I believe so.      23 Q. And the new SOM system that went into      24 effect did not go into effect until 2014, is</p>
<p>1 included in its new algorithm for CVS, correct?      2 MS. MILLER: Object to form.      3 A. I see from this document that they      4 requested it.      5 BY MR. ELSNER:      6 Q. Do you know whether it was used by the      7 Analysis Group as a component of the algorithm?      8 MS. MILLER: Object to form.      9 A. I'm not -- I'm not familiar with      10 exactly what is in the algorithms.      11 BY MR. ELSNER:      12 Q. Well, do you know whether the system      13 analyzes dispensing information?      14 MS. MILLER: Object to form.      15 A. The current system we have today I      16 know takes into account dispensing information.      17 BY MR. ELSNER:      18 Q. And that system is based on the system      19 that the Analysis Group built for CVS, is that      20 right?      21 A. Yes, the current system we have today      22 is what the Analysis Group assisted with.      23 Q. And that includes prescribing      24 information, patient information, and pharmacist</p>	<p>1 that right?      2 A. I believe the new SOM system started      3 to roll out in 2014.      4 Q. 2014. It was on a rolling basis; you      5 did a few distribution centers at a time, is      6 that right?      7 A. I don't remember the exact dates, but      8 I know it was a rollout approach to the      9 distribution centers.      10 Q. You didn't hit all distributions at      11 one exact time with the new system, correct?      12 A. No, I don't believe they were all      13 rolled out at the same time.      14 Q. Okay. And that process of rollout      15 continued throughout 2014 into November of 2014,      16 is that right?      17 A. I don't recall the rollout schedule      18 and when it completed.      19 Q. But at least through 2012 when you      20 started through some point in 2014 CVS was using      21 the old system until the rollout for each      22 distribution center, and as the rollout came      23 into effect the new system would come into place      24 for that distribution center, is that right?</p>

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<p>1 MS. MILLER: Object to form.</p> <p>2 BY MR. ELSNER:</p> <p>3 Q. And the old distribution centers were</p> <p>4 still using the old process, correct?</p> <p>5 MS. MILLER: Object to form.</p> <p>6 A. I know that at the time of the</p> <p>7 rollout, obviously the rollout involved</p> <p>8 distribution centers going onto the new</p> <p>9 developed algorithm and may have also used the</p> <p>10 old algorithm as well or old system as well.</p> <p>11 And I believe at the time of the rollout the</p> <p>12 distribution centers that it hadn't been rolled</p> <p>13 out to were still utilizing the older suspicious</p> <p>14 order monitoring process.</p> <p>15 BY MR. ELSNER:</p> <p>16 Q. Okay. There never came a point in</p> <p>17 time where you, you know, went to Indianapolis</p> <p>18 and sat down with the SOM analysts there that</p> <p>19 were using the old SOM system to understand it,</p> <p>20 is that true?</p> <p>21 MS. MILLER: Object to form.</p> <p>22 A. I've never been to the Indianapolis</p> <p>23 distribution center.</p> <p>24 BY MR. ELSNER:</p>	<p>1 monitoring at CVS in 2012 or 2013 or '14 as that</p> <p>2 system was being used before the new enhanced</p> <p>3 system was put into place, is that right?</p> <p>4 MS. MILLER: Object to form.</p> <p>5 A. At a high level I think I understood</p> <p>6 the process, but no, I never recall a</p> <p>7 conversation that went into details of exactly</p> <p>8 what that old system -- how it functioned.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. Okay. Were you aware that they had</p> <p>11 staffing issues with respect to the SOM</p> <p>12 management team in Indianapolis in 2013?</p> <p>13 MS. MILLER: Object to form.</p> <p>14 A. I don't recall any management staffing</p> <p>15 issues.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. Do you recall any staffing shortages</p> <p>18 or other staffing problems in the SOM review</p> <p>19 team in 2013?</p> <p>20 A. I don't recall any situations where we</p> <p>21 couldn't review, well, orders of interest</p> <p>22 that -- well, I don't remember there ever being</p> <p>23 an instance where that was an issue.</p> <p>24 Q. That wasn't my question. I asked you</p>
<p style="text-align: right;">Page 347</p> <p>1 Q. Okay. Have you ever sat down with</p> <p>2 anyone at CVS and reviewed an IRR report from</p> <p>3 the old suspicious order monitoring system at</p> <p>4 CVS?</p> <p>5 MS. MILLER: Object to form.</p> <p>6 A. I am aware there were IRR reports. I</p> <p>7 don't recall going through one with anyone on</p> <p>8 the SOM team.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. Do you know how to read one?</p> <p>11 MS. MILLER: Object to form.</p> <p>12 A. I don't recall having read an IRR. I</p> <p>13 can't even think about it, whether -- I can't</p> <p>14 remember what it looks like.</p> <p>15 BY MR. ELSNER:</p> <p>16 Q. Okay. That wasn't part of what you</p> <p>17 did at CVS, right?</p> <p>18 MS. MILLER: Object to form.</p> <p>19 A. No, my role was never to review</p> <p>20 orders.</p> <p>21 BY MR. ELSNER:</p> <p>22 Q. Okay. And no one from CVS sat down</p> <p>23 with you and explained to you the system that</p> <p>24 was in place with respect to suspicious order</p>	<p>1 whether you were aware of any staffing shortages</p> <p>2 or staffing issues in 2013.</p> <p>3 MS. MILLER: Object to form.</p> <p>4 A. I don't recall any staffing issues</p> <p>5 that affected the SOM process.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. In June of -- in June of 2013, Aaron</p> <p>8 Burtner left CVS, and Kelly Baker assumed Aaron</p> <p>9 Burtner's responsibilities until a replacement</p> <p>10 could be found, is that true?</p> <p>11 A. I recall at some point Aaron left. I</p> <p>12 don't remember exactly when that date was. And</p> <p>13 I remember -- I somewhat remember working with</p> <p>14 Kelly Baker on certain things. I don't know the</p> <p>15 time frames.</p> <p>16 (Whereupon, CVS-Schiavo-23 was marked</p> <p>17 for identification.)</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. This is Exhibit 23. If you go -- you</p> <p>20 know, with all e-mails you've got to sort of</p> <p>21 look at the first one first -- last one first if</p> <p>22 you want to see the flow. So I'm going to ask</p> <p>23 you to turn to Page 76116, which is the third</p> <p>24 document of the e-mail I placed before you.</p>

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<p>1 A. Okay.</p> <p>2 Q. And this e-mail is from Shawna</p> <p>3 Leuhring. Did I say that correctly?</p> <p>4 A. I'm not sure how to pronounce her last</p> <p>5 name.</p> <p>6 Q. Have you ever met her?</p> <p>7 A. I don't recall meeting Shawna.</p> <p>8 Q. Do you know who she works for?</p> <p>9 A. At this time I'm not sure who she</p> <p>10 reported to.</p> <p>11 Q. But she was with CVS?</p> <p>12 A. It says "Contractor" next to her name,</p> <p>13 but I remember her working at CVS.</p> <p>14 Q. Okay. And this is an e-mail that she</p> <p>15 wrote to you dated July 1, 2013, is that right?</p> <p>16 A. Yes.</p> <p>17 Q. And she says "Craig and Team, I've</p> <p>18 updated the Archer SOM prototype with the</p> <p>19 'Prescriber' changes, by removing the Letter and</p> <p>20 Call fields from the 'Review' tab and moved the</p> <p>21 'Action' tab section over to the 'Review' tab.</p> <p>22 Attached, please find screenshots of the revised</p> <p>23 SOM record. Please review and let me know if</p> <p>24 you see the need for any other changes."</p>	<p>1 MS. MILLER: Object to form.</p> <p>2 A. That's what it says.</p> <p>3 BY MR. ELSNER:</p> <p>4 Q. Okay. So at this point in time we had</p> <p>5 Kelly Baker reviewing -- doing the SOM review</p> <p>6 for CVS, and you were going to include a team</p> <p>7 which was yet to be hired, is that right?</p> <p>8 A. That's what it says.</p> <p>9 Q. And then it says "Who will be</p> <p>10 approving the SOM cases" under question 4.</p> <p>11 Do you see that?</p> <p>12 A. I see what -- I see what it says, and</p> <p>13 I'm not sure what that means.</p> <p>14 Q. Okay. It says "Who will be approving</p> <p>15 the SOM cases?" And you write in response</p> <p>16 "Kelly Baker or Kelly's manager, or both."</p> <p>17 So at this point in time Kelly Baker</p> <p>18 did not have a manager because Aaron Burtner had</p> <p>19 left, correct?</p> <p>20 MS. MILLER: Object to form.</p> <p>21 A. I don't know that to be true.</p> <p>22 BY MR. ELSNER:</p> <p>23 Q. Well, was there a manager of the SOM</p> <p>24 program in Indianapolis in 2013?</p>
<p>1 And then it says below "I'll also need</p> <p>2 to get requirements for Access Control." And</p> <p>3 then there's a question and it says "Who will be</p> <p>4 entering in the SOM cases?"</p> <p>5 Do you see that, question number 1?</p> <p>6 A. I see where it says that.</p> <p>7 Q. Okay. And if you see above her e-mail</p> <p>8 there is an e-mail from you dated Tuesday,</p> <p>9 July 2, 2013 to a number of people, including</p> <p>10 Tom Bourque, Kelly Baker, Dean Vanelli.</p> <p>11 Do you see that?</p> <p>12 A. I see that.</p> <p>13 Q. Okay. It says "Team, My comment are</p> <p>14 in red, please review and make any</p> <p>15 additions/changes necessary."</p> <p>16 So basically what is happening here is</p> <p>17 Shawna sends you an e-mail asking who is going</p> <p>18 to gain access control, and then you write in</p> <p>19 red the answers to those questions, and they're</p> <p>20 bolded here.</p> <p>21 And next to question 1, you -- next to</p> <p>22 "Who will be entering in the SOM cases?", you</p> <p>23 wrote "Kelly Baker and his team (yet to be</p> <p>24 hired)," correct?</p>	<p>1 MS. MILLER: Object to form.</p> <p>2 A. I'm sure there was. I don't remember</p> <p>3 that team ever not having someone that managed</p> <p>4 them, but I don't know who that was.</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. Why are you sure?</p> <p>7 A. I don't know if you're --</p> <p>8 Q. It's about the only thing you've been</p> <p>9 sure about today. What makes you so sure there</p> <p>10 was a manager in place?</p> <p>11 MS. MILLER: Objection to form.</p> <p>12 A. Because I don't ever know of a</p> <p>13 situation where someone worked at CVS and did</p> <p>14 not have a manager.</p> <p>15 BY MR. ELSNER:</p> <p>16 Q. Well, there was a manager -- there was</p> <p>17 a SOM manager position that Aaron Burtner had,</p> <p>18 and he left CVS, right?</p> <p>19 MS. MILLER: Object to form.</p> <p>20 A. At some point he left CVS.</p> <p>21 BY MR. ELSNER:</p> <p>22 Q. Okay. And so they needed to fill that</p> <p>23 position, right?</p> <p>24 A. I don't know if they needed to fill</p>

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<p>1 that position, but -- I don't know if they      2 needed to fill that position.      3 Q. Do you know whether they tried to,      4 sent out an ad to fill the position?      5 A. I don't recall this process. I don't      6 know if I was even a part of that process.      7 Q. If we move forward in the -- to the      8 prior page of the e-mail, at the very top      9 there's an e-mail from Kelly Baker to you dated      10 July 9, 2013.      11 Do you see that?      12 A. The one at 3:51 p.m.?      13 Q. That's the one, yes.      14 A. I see that e-mail.      15 Q. Okay. And he writes "Craig, not      16 really pertaining to your question, but I did      17 want to highlight to the group that you note      18 that I do not," in all caps, "have a backup.      19 Even our hourly assistant has limited access.      20 If something happens to me via act of nature or      21 illness, the current daily SOM process would      22 come to a complete halt."      23 Did I read that correctly?      24 A. That's what it says.</p>	<p>1 that to be true, but that's what he wrote.      2 Q. He said -- then he writes "I am not      3 aware of a risk assessment or action plans in      4 place to address."      5 Is that what he wrote?      6 A. I see that written there.      7 Q. Okay. And your response to Kelly,      8 just Kelly, which is about a little over a half      9 hour later, you write "Kelly, Thanks for the      10 heads up! That is something we will need to      11 discuss."      12 Is that your response?      13 A. That's what it says.      14 MR. ELSNER: This is Exhibit 24.      15 (Whereupon, CVS-Schiavo-24 was marked      16 for identification.)      17 BY MR. ELSNER:      18 Q. Now, you take this same exact e-mail      19 that Kelly Baker sent to you and to Tom Bourque      20 and to others on July 9, 2013 at 3:51 p.m., and      21 then you forwarded that e-mail a minute later to      22 Tom Bourque, and you write "This is not good..."      23 correct?      24 A. I see that.</p>
<p style="text-align: center;">Page 355</p> <p>1 Q. So at this point in time Kelly Baker      2 didn't have anyone else helping him with the SOM      3 review process, and if something were to happen      4 to him, he writes "the system would come to a      5 complete halt," is that right?      6 MS. MILLER: Object to form.      7 A. It looks like he says "Even our hourly      8 assistant has limited access," so it seems as if      9 he did have someone else that was helping him      10 based on that e-mail.      11 BY MR. ELSNER:      12 Q. With limited access, yes. But no one      13 else, right?      14 MS. MILLER: Object to form.      15 A. I don't know what he's referring to by      16 limited access. And I see where he's indicating      17 "I do not have a backup."      18 BY MR. ELSNER:      19 Q. And he indicated that if something      20 were to happen to him "via act of nature or      21 illness, the current daily SOM process would      22 come to a complete halt." Is that what he      23 wrote?      24 A. That's what he wrote. I don't know</p>	<p style="text-align: center;">Page 357</p> <p>1 Q. Okay. So it's not good, agreeing that      2 there's not a risk assessment or action plan in      3 place to address this, right?      4 MS. MILLER: Object to form.      5 A. I see that it's written that it's not      6 good. But in terms of what we just reviewed, I      7 don't see anything in concerns with -- in      8 concern to SOM not functioning appropriately.      9 BY MR. ELSNER:      10 Q. Well, in response to Kelly Baker's      11 e-mail to you saying that he didn't have backup      12 and "If something happens to me via act of      13 nature or illness, the current SOM process would      14 come to a complete halt," you take that e-mail      15 and forward it to your boss, Tom Bourque, with      16 the message "This is not good," right?      17 MS. MILLER: Object to form.      18 A. I forwarded what Kelly said to Tom      19 Bourque saying "This is not good" referring to      20 the hypothetical situation of if Kelly was out      21 and him saying the SOM process would come to a      22 halt, although --      23 BY MR. ELSNER:      24 Q. Is that what you wrote?</p>

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<p>1 A. That's what I wrote.</p> <p>2 MR. ELSNER: This is Exhibit 25.</p> <p>3 (Whereupon, CVS-Schiavo-25 was marked</p> <p>4 for identification.)</p> <p>5 BY MR. ELSNER:</p> <p>6 Q. The prior exhibit, Tom Bourque</p> <p>7 responds to you in Motley Rice 89 that "We can</p> <p>8 discuss with Dean" in response to your e-mail.</p> <p>9 Do you see that?</p> <p>10 A. At the top, yes, "We can discuss with</p> <p>11 Dean."</p> <p>12 Q. So that was Tom's response.</p> <p>13 And Dean Vanelli writes a response on</p> <p>14 July 9th to you and to Kelly Baker. Do you see</p> <p>15 that in the middle of Motley Rice 90, this</p> <p>16 exhibit?</p> <p>17 A. I see that.</p> <p>18 Q. It says the action plans include</p> <p>19 backfilling Aaron's role is already in progress</p> <p>20 and creating a staffing plan to operate under</p> <p>21 the new system.</p> <p>22 So this indicates that they're trying</p> <p>23 to find a manager to fill Aaron Burtner's role,</p> <p>24 correct, an SOM manager?</p>	<p>1 A. That's what he wrote.</p> <p>2 Q. Okay. Then he separately at the</p> <p>3 bottom of that e-mail says "Craig" -- do you see</p> <p>4 where I'm at?</p> <p>5 A. At the bottom, yes.</p> <p>6 Q. It says "We will fill in additional</p> <p>7 players as we backfill Aaron's head count and</p> <p>8 build the team to support the new process."</p> <p>9 Do you see that?</p> <p>10 A. I see that.</p> <p>11 Q. Then he says "Over and above, I would</p> <p>12 add the following individuals to the read only</p> <p>13 list: Mark Nicastro (Indy DC director) and Amy</p> <p>14 Propatier (my backup)." Did I read that</p> <p>15 correctly?</p> <p>16 A. I see that.</p> <p>17 Q. Okay. Did you know that Mark Nicastro</p> <p>18 and Amy Propatier have no idea how to read an</p> <p>19 IRR report?</p> <p>20 MS. MILLER: Object to form.</p> <p>21 A. I don't recall ever knowing whether</p> <p>22 they could or could not read an IRR report.</p> <p>23 BY MR. ELSNER:</p> <p>24 Q. Okay. So Dean Vanelli's suggestion to</p>
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<p>1 A. I don't recall Kelly reporting to</p> <p>2 Aaron, but this is Dean saying that they're</p> <p>3 looking to backfill Aaron's role.</p> <p>4 Q. And two sentences -- or the next</p> <p>5 sentence later, the last sentence in the first</p> <p>6 paragraph of Dean Vanelli's e-mail, he writes "I</p> <p>7 agree there is a short-term risk if something</p> <p>8 were to happen with Kelly, especially until</p> <p>9 we...fill Aaron's role and on board the planned</p> <p>10 staffing increase on the Indy SOM team."</p> <p>11 So Dean Vanelli agrees that there's a</p> <p>12 short-term risk, the risk that Kelly Baker</p> <p>13 highlights, correct?</p> <p>14 MS. MILLER: Object to form.</p> <p>15 A. Dean wrote this e-mail. You'd have to</p> <p>16 ask him what he meant by short-term risk and</p> <p>17 what the risk was.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. But that's what he wrote, right, "I</p> <p>20 agree there's a short-term risk" in response to</p> <p>21 Kelly Baker's e-mail to you?</p> <p>22 A. He wrote there's a short-term risk.</p> <p>23 Q. If something were to happen to Kelly,</p> <p>24 right?</p>	<p>1 you is to add them, the two of them, to the</p> <p>2 list of -- list of people that you were</p> <p>3 creating, to the read only list, and you don't</p> <p>4 know whether or not they can read an IRR report,</p> <p>5 correct?</p> <p>6 MS. MILLER: Object to form.</p> <p>7 A. I don't recall whether I knew if they</p> <p>8 could or could not.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. You have no knowledge about whether</p> <p>11 they were qualified to perform that role,</p> <p>12 correct?</p> <p>13 MS. MILLER: Object to form.</p> <p>14 A. I do not recall whether I knew or did</p> <p>15 not know if they could read an IRR report.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. Did you add them as the backup?</p> <p>18 MS. MILLER: Object to form.</p> <p>19 A. I don't recall.</p> <p>20 BY MR. ELSNER:</p> <p>21 Q. You didn't do any other investigation</p> <p>22 to determine whether it was appropriate to add</p> <p>23 Mark Nicastro or Amy Propatier to the system,</p> <p>24 did you?</p>

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<p>1     A. I can't recall if I did or I didn't,      2 nor at that time would it be my role. Dean was      3 in logistics, I believe that would be his      4 decision.</p> <p>5     Q. Okay. And you didn't do any      6 investigation to determine whether that decision      7 was appropriate or not, right?</p> <p>8       MS. MILLER: Object to form.</p> <p>9     A. I don't recall whether I did or did      10 not, or whether or not Mark or Amy could read an      11 IRR. I don't know.</p> <p>12 BY MR. ELSNER:</p> <p>13    Q. Was that part of your practice, if      14 your boss said add someone to the list, would      15 you do it, or would you do your own      16 investigation to determine whether they're      17 qualified to do that?</p> <p>18       MS. MILLER: Object to form.</p> <p>19    A. Dean was not my boss.</p> <p>20 BY MR. ELSNER:</p> <p>21    Q. Sorry?</p> <p>22    A. Dean was not my boss.</p> <p>23    Q. Okay. Did you rely on Dean's      24 recommendation, or did you conduct your own</p>	<p>1     A. I see that. And I do not recall what      2 BVRs means.</p> <p>3     Q. You actually didn't recall then      4 either, so you sent him an e-mail and asked, and      5 he said -- and he answered the question. If I      6 can find the e-mail, I'll send it to you.</p> <p>7       "The data snapshot is a three-month      8 window that is a year old. Any analysis that I      9 make from the data is, for the most part,      10 irrelevant and pointless."</p> <p>11      Do you see that?</p> <p>12    A. I see where he wrote that.</p> <p>13    Q. Do you agree with him?</p> <p>14       MS. MILLER: Object to form.</p> <p>15    A. I don't have any other information to      16 make a determination whether or not I would      17 agree with that.</p> <p>18 BY MR. ELSNER:</p> <p>19    Q. Okay. He then writes, "I know this      20 tool will be going away and may not be cost      21 effective to update. But I'm wasting a lot of      22 man-hours. I don't understand why they just      23 can't rerun the query for a token amount. They      24 would not have to rewrite the scripts or code.</p>
<p style="text-align: center;">Page 363</p> <p>1 investigation, or was it your practice to      2 conduct an investigation, or no?</p> <p>3       MS. MILLER: Object to form.</p> <p>4     A. In this case I don't recall doing my      5 own investigation. In reading this, I don't      6 even know what Dean is referring to or if I had      7 the ability to add anyone to anything. I don't      8 know what he's referring to here.</p> <p>9 BY MR. ELSNER:</p> <p>10    Q. If we go back to Exhibit 23, which is      11 the initial e-mail exchange that we started      12 with.</p> <p>13    A. Okay.</p> <p>14    Q. On the very first page, 76114, there's      15 an e-mail from Kelly Baker to you in reply to      16 the e-mail that you sent to him on July 9th. He      17 then sends you an e-mail on Thursday, July 11,      18 2013.</p> <p>19      Do you see that?</p> <p>20    A. I see that.</p> <p>21    Q. Okay. And he writes "Craig, another      22 concern I have is the Store Metric Report I use      23 to analyze the BVRs on the IRR."</p> <p>24      Do you see that?</p>	<p style="text-align: center;">Page 365</p> <p>1       "In any event, the big issue is of      2 false negatives and the risks associated with      3 something slipping by."</p> <p>4       Kelly Baker thought because he was      5 reviewing outdated data that there was a risk      6 that a suspicious order would slip by him,      7 correct?</p> <p>8       MS. MILLER: Object to form.</p> <p>9     A. I see what Kelly wrote here. I can't      10 speak to what he was thinking.</p> <p>11 BY MR. ELSNER:</p> <p>12    Q. Did it concern you that when you      13 received this e-mail that he was relying on      14 outdated data and that he was worried that there      15 was the possibility that an order for -- a      16 suspicious order for a controlled substance      17 would slip by him?</p> <p>18       MS. MILLER: Object to form.</p> <p>19    A. I don't recall what I thought when I      20 received this e-mail.</p> <p>21 BY MR. ELSNER:</p> <p>22    Q. Do you know what you did with it?</p> <p>23       MS. MILLER: Object to form.</p> <p>24    A. I don't recall this situation.</p>

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<p>1 BY MR. ELSNER:</p> <p>2 Q. Kelly then writes to Mark Nicastro</p> <p>3 above and he says "Mark, I didn't include you on</p> <p>4 this original because of your full mailbox. The</p> <p>5 BVR are orders flagged based on volume, ratio or</p> <p>6 both."</p> <p>7 Do you see that?</p> <p>8 A. I see where it says that.</p> <p>9 Q. And he then writes, "Really just a CYA</p> <p>10 for me. I'm pretty sure Aaron mentioned this to</p> <p>11 the SOM development team, but I don't want them</p> <p>12 to use me as the sacrificial lamb when or if it</p> <p>13 hits the fan because something slipped through."</p> <p>14 Did I read that correctly?</p> <p>15 A. That's what that e-mail says.</p> <p>16 Q. Were you aware that Kelly Baker was</p> <p>17 afraid that he was going to take the blame for</p> <p>18 suspicious orders slipping through based on the</p> <p>19 old data he was provided to produce suspicious</p> <p>20 orders?</p> <p>21 MS. MILLER: Object to form.</p> <p>22 A. The e-mail that you're showing me I'm</p> <p>23 not even on, and I don't ever recall that being</p> <p>24 a concern. I don't recall that being a concern.</p>	<p>1 A. I don't know why he sent this to me.</p> <p>2 You'd have to ask Kelly.</p> <p>3 BY MR. ELSNER:</p> <p>4 Q. Did you think that he -- did he think</p> <p>5 that you were the best person to try to fix the</p> <p>6 system that was broken at CVS?</p> <p>7 MS. MILLER: Object to form.</p> <p>8 A. You would have to ask Kelly. I don't</p> <p>9 know what Kelly thought.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. You weren't his supervisor, right?</p> <p>12 A. I was not Kelly's supervisor.</p> <p>13 Q. Mark Nicastro was one of the people he</p> <p>14 reported to, and Mark's mailbox was full so he</p> <p>15 then reaches out to you.</p> <p>16 MS. MILLER: Object to form.</p> <p>17 BY MR. ELSNER:</p> <p>18 Q. Why?</p> <p>19 A. You would have to ask Kelly.</p> <p>20 Q. I will.</p> <p>21 MR. ELSNER: This is Exhibit 26.</p> <p>22 (Whereupon, CVS-Schiavo-26 was marked</p> <p>23 for identification.)</p> <p>24 BY MR. ELSNER:</p>
<p>Page 367</p> <p>1 BY MR. ELSNER:</p> <p>2 Q. Well, he was concerned about it,</p> <p>3 right?</p> <p>4 MS. MILLER: Object to form.</p> <p>5 A. He sent that e-mail to Mark. I don't</p> <p>6 know what follow-up conversations or -- I don't</p> <p>7 know, I'm not on that e-mail, I didn't have</p> <p>8 further conversations on that.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. He sent the first e-mail to you, and</p> <p>11 he said the same thing, he's worried about the</p> <p>12 risks associated with something slipping by.</p> <p>13 That's what he wrote you, correct?</p> <p>14 MS. MILLER: Object to form.</p> <p>15 A. It says in that e-mail -- that's what</p> <p>16 it says in the e-mail.</p> <p>17 BY MR. ELSNER:</p> <p>18 Q. Why did he write this to you?</p> <p>19 MS. MILLER: Object to form.</p> <p>20 A. I don't know why he sent this to me.</p> <p>21 BY MR. ELSNER:</p> <p>22 Q. Did he think you could help him try to</p> <p>23 fix this?</p> <p>24 MS. MILLER: Object to form.</p>	<p>Page 369</p> <p>1 Q. This is Motley Rice 78116, and</p> <p>2 Exhibit 26. If you look at the top of the</p> <p>3 second page, if you look at the top of the</p> <p>4 second page, this is the e-mail that Kelly Baker</p> <p>5 sent to you, and you have an exchange with him</p> <p>6 on what BVR is, as I promised you I'd show you,</p> <p>7 right? You asked -- you said "Kelly, Quick</p> <p>8 question that I should probably know the answer</p> <p>9 to... what is a BVR?" Right?</p> <p>10 A. Where is that? I'm sorry.</p> <p>11 Q. I'm sorry. The bottom of the first</p> <p>12 page.</p> <p>13 A. An e-mail from me?</p> <p>14 Q. I'm sorry, are you on Exhibit 26?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. "Kelly, Quick question that I</p> <p>17 should probably know the answer to...what is a</p> <p>18 BVR?" And he responds to you what it is. And</p> <p>19 then you forward this e-mail exchange to Tom</p> <p>20 Bourque on July 16, 2013, correct, and you write</p> <p>21 to Tom and you write -- and this is your boss,</p> <p>22 right?</p> <p>23 A. At this time Tom Bourque is my boss.</p> <p>24 Q. Okay. And you write to Tom, "FYI -</p>

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<p>1 Kelly brings up another concern about the      2 current process and the data he is looking      3 at...seems that some of the information he is      4 using is very old and not helpful. Don't think      5 there is anything we can do about it now, but      6 just wanted to let you know."</p> <p>7 Is that what you wrote to him?</p> <p>8 MS. MILLER: Object to form.</p> <p>9 A. That's what it says.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. And there wasn't anything done to      12 change the process, correct?</p> <p>13 MS. MILLER: Object to form.</p> <p>14 A. I don't know that to be the case.</p> <p>15 MR. ELSNER: Why don't we go off the      16 record for a minute.</p> <p>17 THE VIDEOGRAPHER: We're going off the      18 record at 4:34 p.m.</p> <p>19 (Whereupon, a recess was taken.)</p> <p>20 THE VIDEOGRAPHER: We're back on the      21 record at 4:37 p.m.</p> <p>22 BY MR. ELSNER:</p> <p>23 Q. Mr. Schiavo, I'm going to show you      24 what's been marked as Exhibit 27.</p>	<p>1 queue and assigning easy drug families to      2 herself in order to not have to pick drug      3 families that normally would require more due      4 diligence." Did I read that right?</p> <p>5 A. That's what it says.</p> <p>6 Q. Okay. And so at this point in time      7 you were doing a review? Shan was one of the      8 suspicious order monitoring analysts, right?</p> <p>9 A. Yes, I believe so at the time.</p> <p>10 Q. Okay. And in the second paragraph you      11 write, "Also, when going through some of the      12 cases she is reviewing it looks like she is copy      13 and pasting quite frequently which leads me to      14 believe she is not putting in the time to review      15 each case separately and reviewing all      16 applicable data to make a decision on whether or      17 not an order is legitimate." Did I read that      18 correctly?</p> <p>19 A. That's what it says.</p> <p>20 Q. The next paragraph you write "I think      21 it is important that this gets addressed as soon      22 as possible as this could pose a huge risk to      23 our company if this function is not done      24 effectively." Correct?</p>
<p style="text-align: center;">Page 371</p> <p>1 (Whereupon, CVS-Schiavo-27 was marked      2 for identification.)</p> <p>3 BY MR. ELSNER:</p> <p>4 Q. This is an e-mail that you sent to Tom      5 Bourque, the subject being the "SOM Team" dated      6 June 19, 2014.</p> <p>7 Do you see that?</p> <p>8 A. I see that.</p> <p>9 Q. Okay. And it reads, "I wanted to run      10 this by you before I sent. I know we" are      11 having "the meeting with Pawlik today to discuss      12 SOM so I don't know if you want me to hold off      13 on sending the e-mail below to Susan but I      14 looked at some information today that is      15 concerning and I feel need to be addressed." Is      16 that right?</p> <p>17 A. I see that's what it says.</p> <p>18 Q. Okay. Then you send him a sort of      19 draft note that you had drafted to send to      20 Susan, correct?</p> <p>21 A. It looks like that's what I did.</p> <p>22 Q. Okay. And it reads "As we discussed      23 earlier this week, I have heard some concerns      24 from the SOM team around Shan going ahead in the</p>	<p style="text-align: center;">Page 373</p> <p>1 MS. MILLER: Object to form.</p> <p>2 A. I see where that is written.</p> <p>3 BY MR. ELSNER:</p> <p>4 Q. And it was accurate, right? You      5 believed that to be true?</p> <p>6 MS. MILLER: Object to form.</p> <p>7 A. At the time I recall believing that at      8 times Shan would cherry-pick some orders.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. And cut and paste her suspicious order      11 monitoring review as well, correct?</p> <p>12 A. I don't recall her ever just a blanket      13 copy and paste that led me to -- I don't recall      14 ever thinking that she wasn't doing a review. I      15 think she was just copying and pasting in some      16 cases.</p> <p>17 Q. Well, you wrote, did you not, that      18 "Some of the cases she is reviewing it looks      19 like she is copying and pasting quite frequently      20 which leads me to believe she is not putting in      21 the time to review each case separately and      22 reviewing all applicable data to make a decision      23 on whether or not an order a legitimate."</p> <p>24 Correct?</p>

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<p>1 MS. MILLER: Object to form.</p> <p>2 A. I see that's what's written there.</p> <p>3 But this is a draft, I don't know if that's</p> <p>4 exactly how I meant that to read. I was sending</p> <p>5 this to Tom for feedback. So I don't know if we</p> <p>6 changed this to be more clear on exactly what I</p> <p>7 meant.</p> <p>8 BY MR. ELSNER:</p> <p>9 Q. But that's what you wrote, right?</p> <p>10 MS. MILLER: Object to the form.</p> <p>11 A. That's what this draft of a potential</p> <p>12 e-mail says, but I don't believe that's what I</p> <p>13 meant, or that I had concern she wasn't doing a</p> <p>14 good job at reviewing orders.</p> <p>15 BY MR. ELSNER:</p> <p>16 Q. You don't believe that's accurate?</p> <p>17 You purposely wrote something inaccurate to your</p> <p>18 boss?</p> <p>19 MS. MILLER: Object to form.</p> <p>20 A. I wouldn't say I was writing something</p> <p>21 to purposely be inaccurate. I think it might be</p> <p>22 poorly worded.</p> <p>23 (Whereupon, CVS-Schiavo-28 was marked</p> <p>24 for identification.)</p>	<p>1 diligence. Not each team member is aligned with</p> <p>2 the importance of reaching out to our stores in</p> <p>3 order to comply with the 'Know Your Customer'</p> <p>4 expectation. This could also lead to</p> <p>5 inconsistencies in the...process of what orders</p> <p>6 should be released or blocked," correct?</p> <p>7 A. That --</p> <p>8 MS. MILLER: Object to form.</p> <p>9 A. That is what that potential risk says.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. And then it writes in the comments,</p> <p>12 "In May, the following is the percentage of</p> <p>13 calls each team member made for flagged orders:</p> <p>14 Annette, 19 percent." Then there's another</p> <p>15 individual at 15 percent, Noah at 13 percent,</p> <p>16 Caitlin at 7 percent, and Shan at 4 percent.</p> <p>17 Did I read that correctly?</p> <p>18 A. That's what that says.</p> <p>19 Q. Okay. So part of the due diligence</p> <p>20 process at CVS at this time in June of 2014 --</p> <p>21 and this is under the new system, right?</p> <p>22 MS. MILLER: Object to form.</p> <p>23 A. I don't recall if it's rolled out to</p> <p>24 all distribution centers, but I believe at some</p>
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<p>1 BY MR. ELSNER:</p> <p>2 Q. If you go to the next document I've</p> <p>3 shown you, we've marked it as Exhibit 28. This</p> <p>4 is another e-mail to Tom Bourque actually two</p> <p>5 days before the e-mail we just looked at, "SOM</p> <p>6 Risk Analysis." You write "Tom, I have made the</p> <p>7 updates we discussed." And then you say there</p> <p>8 may be one we want to change from medium to high</p> <p>9 or both. And attached to that is an SOM risk</p> <p>10 analysis that you created, correct?</p> <p>11 A. This is an SOM risk analysis that was</p> <p>12 created. I don't recall creating the document,</p> <p>13 but it's a risk analysis.</p> <p>14 Q. Okay. And did somebody else create</p> <p>15 it?</p> <p>16 MS. MILLER: Object to form.</p> <p>17 A. I don't recall if I was the one who</p> <p>18 started this document, but I clearly made</p> <p>19 updates to it, based on the e-mail.</p> <p>20 BY MR. ELSNER:</p> <p>21 Q. And there's lists of potential risks.</p> <p>22 And the first one, the risk level there is</p> <p>23 listed as high, and you write "The SOM team is</p> <p>24 inconsistent in the way they perform their due</p>	<p>1 point this was just newly rolled out to some</p> <p>2 distribution centers.</p> <p>3 BY MR. ELSNER:</p> <p>4 Q. Well, these individual are the</p> <p>5 suspicious order monitoring analysts working in</p> <p>6 Rhode Island that you participated in hiring to</p> <p>7 work on the new SOM system, right?</p> <p>8 A. These are the SOM analysts who I</p> <p>9 recall being part of the interview process.</p> <p>10 Q. Okay. And less than 20 percent of</p> <p>11 flagged orders were calls made to pharmacies,</p> <p>12 correct?</p> <p>13 MS. MILLER: Object to form.</p> <p>14 A. Based on what that's indicating there,</p> <p>15 yes. I don't know how those percentages could</p> <p>16 be pulled or how they were pulled, but that's</p> <p>17 what that's saying.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. Well, if you turn to the last page of</p> <p>20 your e-mail to Tom Bourque on the prior exhibit,</p> <p>21 the very last page of the exhibit, there's a</p> <p>22 chart there of the percentage of phone calls,</p> <p>23 correct?</p> <p>24 MS. MILLER: Sorry, where are you,</p>

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<p>1 Mike?</p> <p>2 MR. ELSNER: Prior exhibit, last page.</p> <p>3 MS. MILLER: That one -- oh, last</p> <p>4 page.</p> <p>5 A. It says "Team Member. Count of Case</p> <p>6 Status." It has the percent of phone calls. I</p> <p>7 don't see how that's calculated or how someone</p> <p>8 would indicate from this the percent of phone</p> <p>9 calls, though.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. Okay. If you go back to Exhibit 28,</p> <p>12 the third item down for lack of -- that's listed</p> <p>13 as a high risk is "Lack of engagement by the</p> <p>14 Management team." Did I read that correctly?</p> <p>15 A. It says that under "Potential Risk."</p> <p>16 Q. Okay. And you write "The team is not</p> <p>17 receiving the support and guidance they need to</p> <p>18 effectively do their jobs. Since Susan has</p> <p>19 started she has not taken an active role in</p> <p>20 learning the position and finding the area of</p> <p>21 opportunity within the team." Did I read that</p> <p>22 correctly?</p> <p>23 A. That's what the document says.</p> <p>24 Q. And you believe that that was a high</p>	<p>1 A. That is what this form says. I don't</p> <p>2 know if I wrote that. That's what the form</p> <p>3 says.</p> <p>4 BY MR. ELSNER:</p> <p>5 Q. That's in the chart that you forwarded</p> <p>6 to your boss, correct?</p> <p>7 MS. MILLER: Object to form.</p> <p>8 A. That appears to be in the chart that I</p> <p>9 sent to Tom.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. Okay. And then in the middle under</p> <p>12 "Comments," it says "To date the team is</p> <p>13 struggling to complete the amount of flagged</p> <p>14 daily orders. With six more distribution</p> <p>15 centers still to be rolled out, there has been</p> <p>16 no plan communicated on how the team intends to</p> <p>17 handle the increased volume." Did I read that</p> <p>18 correctly?</p> <p>19 MS. MILLER: Object to form.</p> <p>20 A. That's what it -- that's what it says.</p> <p>21 BY MR. ELSNER:</p> <p>22 Q. And that was another high risk</p> <p>23 identified, correct?</p> <p>24 MS. MILLER: Object to form.</p>
<p>1 risk, correct?</p> <p>2 MS. MILLER: Object to form.</p> <p>3 A. It says the risk level is high. I</p> <p>4 don't know how risk level was interpreted or</p> <p>5 what the risk is referring to, but under "Risk</p> <p>6 Level" for that one it does say "High."</p> <p>7 BY MR. ELSNER:</p> <p>8 Q. And also then the next one, another</p> <p>9 high risk you identify is the "Lack of</p> <p>10 communication from the SOM Management team to</p> <p>11 the SOM Analysts, as well as a lack of foresight</p> <p>12 by the Management team." Did I read that</p> <p>13 correctly?</p> <p>14 MS. MILLER: Object to form.</p> <p>15 A. That's what this document says.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. And the next item, another high risk,</p> <p>18 "Lack of resources to handle the rollout of all</p> <p>19 distribution centers. This could freeze the</p> <p>20 rollout of the remaining six distribution</p> <p>21 centers or cause the team to not get to every</p> <p>22 flagged order each day," correct? Is that what</p> <p>23 you wrote?</p> <p>24 MS. MILLER: Object to form.</p>	<p>1 A. It's under "Risk Level. High."</p> <p>2 Again, I don't know what thought process went</p> <p>3 into putting these risk levels, and for that one</p> <p>4 I'm not really sure exactly what the risk would</p> <p>5 be.</p> <p>6 BY MR. ELSNER:</p> <p>7 Q. Go to the next one. Another high risk</p> <p>8 level, "Today we are unclear how well the system</p> <p>9 is identifying orders that should actually be</p> <p>10 flagged (false positive rate and tests that need</p> <p>11 to be more stringent?)" Did I read that</p> <p>12 correctly?</p> <p>13 A. That's what it says.</p> <p>14 Q. And --</p> <p>15 MS. MILLER: I just -- I understand</p> <p>16 we're at seven hours. Are we past seven hours?</p> <p>17 THE VIDEOGRAPHER: We're just at seven</p> <p>18 hours now.</p> <p>19 MS. MILLER: Okay. So after this</p> <p>20 question.</p> <p>21 MR. ELSNER: I'll probably ask two</p> <p>22 questions here, three.</p> <p>23 MS. MILLER: Okay.</p> <p>24 BY MR. ELSNER:</p>

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<p>1 Q. "The SOM Algorithm" in the next one 2 "is not flagging the drugs which are diverted 3 the most at our retail locations at a high 4 enough rate." And that's identified as a 5 medium/high risk, correct?</p> <p>6 MS. MILLER: Objection to form.</p> <p>7 A. High/medium is under the risk level 8 column.</p> <p>9 BY MR. ELSNER:</p> <p>10 Q. Okay. And so --</p> <p>11 MS. MILLER: Mike, you're out of time. 12 So you can ask --</p> <p>13 MR. ELSNER: I'm just going to finish 14 this. I've got another question to ask, and 15 I'll just finish with this document.</p> <p>16 MS. MILLER: This is the last 17 question. This is the last question.</p> <p>18 BY MR. ELSNER:</p> <p>19 Q. As of June of 2014, you were still 20 finding high risk levels even with the new 21 rollout of the new system with respect to 22 staffing issues, resources to handle the review 23 of orders, and consistent performance of due 24 diligence reviews, correct?</p>	<p>1 won't let him answer the question. You wanted 2 to see what the question was first? You said 3 one more question, and I asked him one more 4 question.</p> <p>5 MS. MILLER: But now I've realized --</p> <p>6 MR. ELSNER: It's a good question?</p> <p>7 MS. MILLER: -- it's not fair for 8 you -- no, it's not fair for you to continue 9 after seven hours, and I think we should cut it 10 off.</p> <p>11 MR. ELSNER: No, you said I could get 12 one more question, and that's what I've done. 13 Let him answer the question.</p> <p>14 MS. MILLER: I'm instructing him not 15 to answer. We're done. We're out of time.</p> <p>16 MR. ELSNER: I think you should answer 17 the question.</p> <p>18 I'm going to go to the court and ask 19 for more time. I think this has been 20 ridiculous. I think he hasn't admitted at any 21 point offering any document, remembering any 22 documents. You had three days prepping him, and 23 he's giving us nothing that he could potentially 24 remember at all at CVS. And you told me I could</p>
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<p>1 MS. MILLER: Objection to form. And 2 I'm going to instruct him not to answer. We're 3 out of time.</p> <p>4 MR. ELSNER: No, I'll get an answer to 5 that question.</p> <p>6 MS. MILLER: We're out of time.</p> <p>7 MR. ELSNER: No.</p> <p>8 BY MR. ELSNER:</p> <p>9 Q. Answer the question.</p> <p>10 MS. MILLER: It's seven hours. It's 11 up.</p> <p>12 MR. ELSNER: It's a summary question, 13 and I'm going to ask for more time from the 14 court in any event.</p> <p>15 MS. MILLER: Objection.</p> <p>16 BY MR. ELSNER:</p> <p>17 Q. Please answer the question.</p> <p>18 MS. MILLER: Objection.</p> <p>19 I instruct you not to answer.</p> <p>20 MR. ELSNER: You can't instruct him 21 not to answer.</p> <p>22 MS. MILLER: You're out of time.</p> <p>23 MR. ELSNER: You said one more 24 question, I asked him the question, now you</p>	<p>1 ask one more question, and now you won't let him 2 answer the question.</p> <p>3 MS. MILLER: Okay. You may answer the 4 question.</p> <p>5 MR. ELSNER: Can you go back to what 6 the question is so I can read it?</p> <p>7 MS. MILLER: But I object to it, and I 8 don't think it should be part of the record 9 given that you're out of time.</p> <p>10 BY MR. ELSNER:</p> <p>11 Q. As of June of 2014, you were still 12 finding high risk levels even with the new 13 rollout of the new SOM monitoring system with 14 respect to staffing issues, resources to handle 15 the review of orders, and consistent performance 16 of due diligence reviews, correct?</p> <p>17 A. As I stated, I don't know how these 18 risk levels were determined, and at this point 19 in the process I had no concerns or no reason to 20 believe -- in fact, I was very confident that we 21 were meeting our obligation to have a suspicious 22 order monitoring system.</p> <p>23 Q. But that's what you wrote in the 24 document, correct?</p>

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1 MS. MILLER: Okay. We're done. We're	1 (Whereupon, the deposition was
2 done. I instruct you not to answer. You're out	2 concluded.)
3 of time.	3
4 Can we go off the record?	4
5 MR. ELSNER: I'll just say on the	5
6 record that I will consider seeking more time	6
7 from the court, and I don't consider the	7
8 deposition complete.	8
9 MS. MILLER: And I object to that.	9
10 He's used his seven hours. He's out of time,	10
11 and we're done. I need to --	11
12 THE VIDEOGRAPHER: We're going off --	12
13 MS. MILLER: Just to state for the	13
14 record, I'd like to take a little break and come	14
15 back with potential redirect. I don't think	15
16 that it will -- it's going to take much time.	16
17 THE VIDEOGRAPHER: We're going off the	17
18 record at 4:53 p.m.	18
19 (Whereupon, a recess was taken.)	19
20 THE VIDEOGRAPHER: We're back on the	20
21 record at 5:09 p.m.	21
22 EXAMINATION	22
23 BY MS. MILLER:	23
24 Q. Mr. Schiavo, I just have one quick	24
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1 question.	1 STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
2 Exhibit 28 that Mr. Elsner showed you	2
3 towards the end of his examination, do you have	3 I, MAUREEN O'CONNOR POLLARD, RMR, CLR,
4 that before you?	4 and Commissioner in the State of Rhode Island
5 A. I do.	5 and Providence Plantations, do certify that on
6 Q. And I just wanted to clarify, in the	6 the 17th day of January, 2019, at 8:06 o'clock,
7 first row under the "Comments" section, can you	7 the person above-named was duly sworn to testify
8 read what that says to me?	8 to the truth of their knowledge, and examined,
9 A. "In May, the following is the	9 and such examination reduced to typewriting
10 percentage of calls each team member made for	10 under my direction, and is a true record of the
11 flagged orders: Annette 19 percent, Khalilul	11 testimony given by the witness.
12 15 percent, Noah 13 percent, Caitlin 7 percent,	12 I further certify that I am neither
13 Shan 4 percent."	13 attorney, related or employed by any of the
14 Q. And the document reflects that those	14 parties to this action, and that I am not a
15 statistics are for May, is that right?	15 relative or employee of any attorney employed by
16 A. This document is -- it says in May, so	16 the parties hereto, or financially interested in
17 I would assume that these are May numbers.	17 the action.
18 Q. Thank you.	18 In witness whereof, I have hereunto
19 MS. MILLER: That's all I have.	19 set my hand this 20th day of January, 2019.
20 MR. ELSNER: Okay.	20
21 THE VIDEOGRAPHER: This concludes the	21 _____
22 videotaped deposition of Craig Schiavo. The	22 COMMISSIONER
23 time is 5:10 p.m., and we are now off the	23 My Commission Expires April 30, 2020
24 record.	24

<p style="text-align: right;">Page 390</p> <p>1        INSTRUCTIONS TO WITNESS</p> <p>2</p> <p>3        Please read your deposition over</p> <p>4 carefully and make any necessary corrections.</p> <p>5 You should state the reason in the appropriate</p> <p>6 space on the errata sheet for any corrections</p> <p>7 that are made.</p> <p>8        After doing so, please sign the</p> <p>9 errata sheet and date it. It will be attached</p> <p>10 to your deposition.</p> <p>11       It is imperative that you return</p> <p>12 the original errata sheet to the deposing</p> <p>13 attorney within thirty (30) days of receipt of</p> <p>14 the deposition transcript by you. If you fail</p> <p>15 to do so, the deposition transcript may be</p> <p>16 deemed to be accurate and may be used in court.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 392</p> <p>1        ACKNOWLEDGMENT OF DEPONENT</p> <p>2</p> <p>3        I, _____, do</p> <p>4 Hereby certify that I have read the foregoing</p> <p>5 pages, and that the same is a correct</p> <p>6 transcription of the answers given by me to the</p> <p>7 questions therein propounded, except for the</p> <p>8 corrections or changes in form or substance, if</p> <p>9 any, noted in the attached Errata Sheet.</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15       Subscribed and sworn</p> <p>To before me this</p> <p>16        day of _____, 20_____. 17 My commission expires: _____</p> <p>18</p> <p>19       Notary Public</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: right;">Page 391</p> <p>1        -----</p> <p>2        E R R A T A</p> <p>3        PAGE LINE CHANGE</p> <p>4        _____</p> <p>5        REASON: _____</p> <p>6        _____</p> <p>7        REASON: _____</p> <p>8        _____</p> <p>9        REASON: _____</p> <p>10      _____</p> <p>11      REASON: _____</p> <p>12      _____</p> <p>13      REASON: _____</p> <p>14      _____</p> <p>15      REASON: _____</p> <p>16      _____</p> <p>17      REASON: _____</p> <p>18      _____</p> <p>19      REASON: _____</p> <p>20      _____</p> <p>21      REASON: _____</p> <p>22      _____</p> <p>23      REASON: _____</p> <p>24      _____</p>	<p style="text-align: right;">Page 393</p> <p>1        LAWYER'S NOTES</p> <p>2        PAGE LINE</p> <p>3        _____</p> <p>4        _____</p> <p>5        _____</p> <p>6        _____</p> <p>7        _____</p> <p>8        _____</p> <p>9        _____</p> <p>10      _____</p> <p>11      _____</p> <p>12      _____</p> <p>13      _____</p> <p>14      _____</p> <p>15      _____</p> <p>16      _____</p> <p>17      _____</p> <p>18      _____</p> <p>19      _____</p> <p>20      _____</p> <p>21      _____</p> <p>22      _____</p> <p>23      _____</p> <p>24      _____</p>